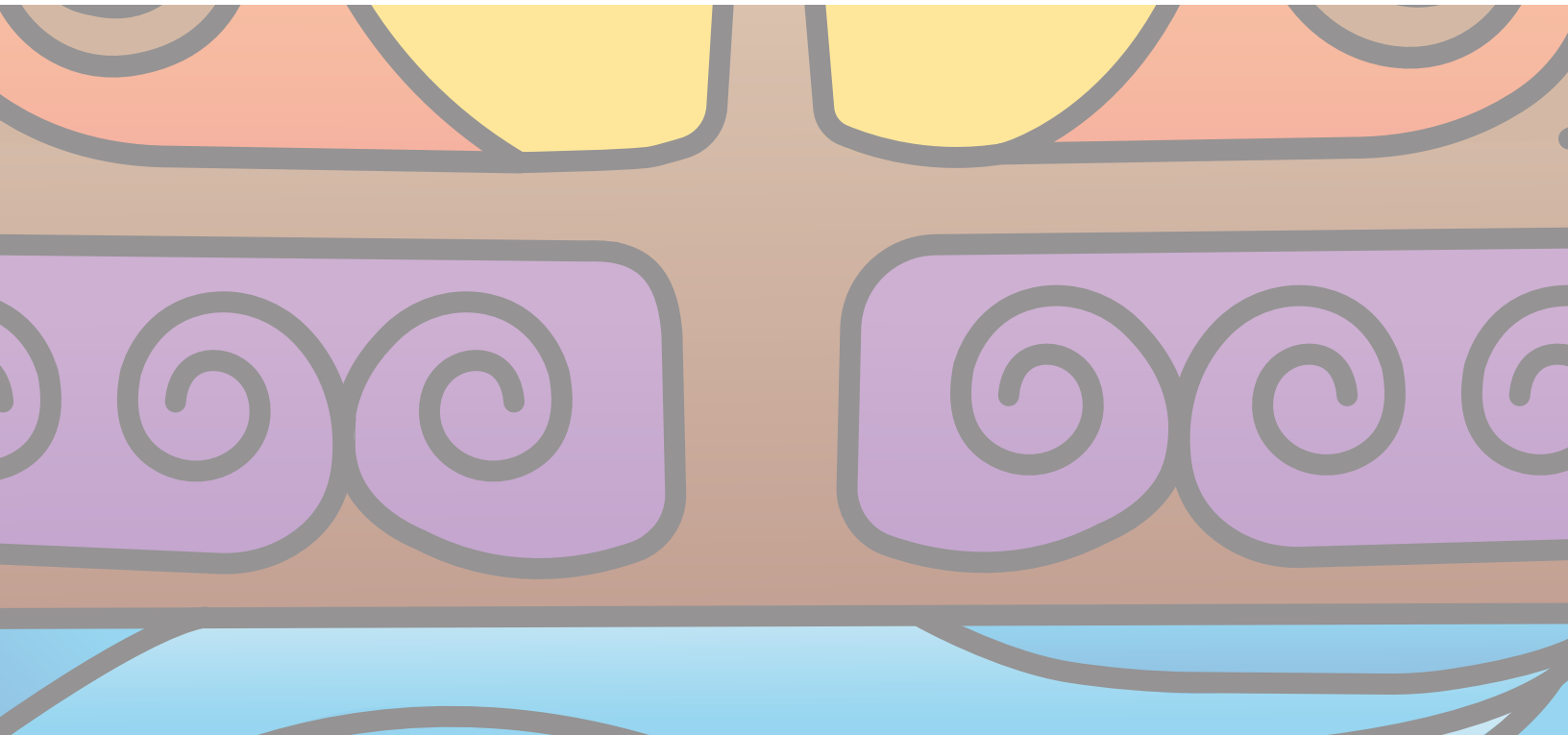
Wolastoqey
Tribal Council Inc.

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WHAT TO DO IF YOUR CHILD IS AT RISK OF BEING TAKEN AWAY BY CHILD WELFARE AUTHORITIES

Child protection cases can be overwhelming. This is especially true for Indigenous families, given the painful history and ongoing impacts of colonialism.

If your family is involved in a child protection case with the New Brunswick Department of Social Development (the **department**), it is crucial to understand the process, your rights, and your responsibilities. **Knowing your rights and what to expect** during the process can help you navigate this challenging and often confusing experience with greater clarity.



What Happens if the Department Receives a Report Concerning My Child?

If someone makes a report to the department, they must review it without delay. After an initial review of the report, they will either close the file or choose to investigate it further.

The Investigation Process

Where My Child May Stay During an Investigation?

If the department believes that your child is not in immediate danger, your child may stay in the home during the investigation. However, if the department believes your child is in immediate danger, they may remove your child from your home and start a court case. In this situation, you should seek legal advice as soon as possible (see information on accessing legal advice at the end of this document). Also consider reaching out to your band's child and family services department for assistance, if available.

What Happens During the Investigation?

During the investigation, **the social worker** assigned to your case will talk to you, your child, and other contacts they deem necessary. From the start, consider letting the social worker know if you and/or your child identify as First Nation, Inuk, or Métis. **Self-identification is your decision and is only recommended if you feel safe to do so.** It may be important because the law gives First Nations, Inuit and Métis children special rights to their culture, heritage, traditions, and community.

In almost all circumstances, the social worker must inform you of the specific complaint or concern the department is investigating and what steps are being taken or have been taken regarding the investigation. The only time the social worker would not let you know is if it would endanger your child's well-being or interfere with the investigation.

The social worker may choose to phone you and plan meetings, or they may show up at your home without notice. Even if you feel like this is intrusive or disagree with the concerns they raise, in most cases, it is best to listen and try to cooperate.

During an investigation, the department may enter into an agreement with you, the parent(s) or guardians(s) legally responsible for the care and well-being of the child, to ensure your child's well-being is protected. If you are unable or do not want to agree, or if the department believes an agreement won't protect the child, the department may go to court for an order regarding your child. Court orders are addressed below.

What Should I Do During the Investigation?

Throughout the investigation process, it is essential to remain calm, ask for as much detail as possible, and record it accurately. If you are asked specific questions about the alleged abuse, give honest and straightforward answers. You may wish to have a trusted person with you, like a friend, neighbour, or a staff member from your First Nation's child and family services department (or something similar), if your community has one.

If you do not cooperate with the investigation process and try to deny access to your child or your home, the department may go to court. The court may then issue a warrant that allows the investigation to go forward and for the social worker to enter your home or any other area to continue the investigation.

Can the Department Enter My Home Without My Permission or a Warrant?

If the department has reasonable grounds to believe that your child is in serious or immediate danger, and that the time to get a warrant would risk further harm to the child, they may enter and search your home **without** a warrant and with force, with a police officer present, to continue their investigation.



Potential Removal of a Child

A **peace officer** may take your child away if they believe your child is in serious or imminent danger. A peace officer can mean a police officer, a police constable, a member of a regional or municipal police force, a member of the RCMP, etc. If your child is removed, the department will either return the child to you or provide **"protective care interventions"**, which means emergency child-protection actions the Minister can take to keep a child safe. This may involve placing the child in a care facility, an arrangement outside or within the family's community.

If they choose to provide protective care interventions, the department must notify you, the parent, without delay. Within 24 hours, the department must provide additional information to you regarding the removal. Within five days, the department must either:

- Return your child to you;
- Enter into an agreement to ensure the child's well-being is protected; or
- Apply for a court order for either protective or supervisory services.

"Supervisory services" refers to the child being placed back with you, while the department maintains the ability to monitor you and the child.

If your child is returned home after five days, you can ask the court to review the department's decision to use protective care interventions. **You must apply for a court review within 30 days of your child's release from protective care.** The court will either confirm or deny the department's decision. If the decision is denied, the court will issue an order stating so. This order may be helpful in situations such as school or custody disputes, but you **cannot** seek damages.

Court Orders

If the department chooses to apply for a court order for protective or supervisory services, **you must be informed as soon as possible.** If, at this point in the investigation, you have not yet contacted a lawyer, you should seek legal advice (see information at the end of this document).

There will be a hearing within seven days after your child is removed from your home. At this hearing, the court will decide whether the department had reasonable grounds to provide protective care interventions. The court may make an interim order:

- Dismissing the matter;
- Placing the child with you, the parent, subject to a supervision order;
- Placing the child with kin (a member of your family), subject to a supervision order;
- Declaring that the risk to the child warrants an order placing them in the custody of another parent, kin member, or the department for six months;
- Transferring care and custody of the child and all parental rights and responsibilities to the department. Due to the extreme nature of this order, this is often not the first choice of action but is used after other measures have failed or in severe cases.

What Happens After the Investigation Is Concluded?

After the investigation is over, **the department will decide whether your child is in danger.** They must communicate this decision to you and your child, if your child can understand it. If the department decides your child does not need protection, they may choose to close the file and refer you to other services for support. The department will keep a record of the investigation, but it will be private and closed to the public. If the department gets another report regarding your child, the file may be reopened.

It is best to contact a child welfare lawyer or the Office of the New Brunswick Child and Youth Advocate about the specific details of your case, whenever possible.

Wolastoqey Child and Family Laws and Services

The information above is based on the New Brunswick's child welfare regime. **However, your community might have its own child welfare rules or services.**

Recently, in 2020, the federal government passed a new law that recognizes First Nations' inherent jurisdiction over child and family services. The act is called *An Act Respecting First Nations, Inuit and Métis children, youth and families* (the *"Act"*). It allows First Nations to pass child welfare rules that can work alongside or potentially override the provincial rules. This will depend on each First Nations' particular law.

As of 2025, Neqotkuk (Tobique First Nation) is the only Wolastoqey First Nation that has made a law under the new *Act*. The main purpose of Neqotkuk's law is to keep families together, and to offer other solutions so children don't have to be separated from their families.

The law applies to all Neqotkuk people, no matter where they live, and to anyone living on Neqotkuk's reserve. Under this law, the Tobique Child & Family Services Agency — rather than the province — would be the primary service provider for Neqotkuk children on reserve (and off-reserve, if the case has been transferred from the province to the Agency). So, the process for addressing child welfare issues under Neqotkuk's law will look different than the provincial rules.

- You can find a copy of Neqotkuk's law on the Agency's website.

Your community may also have its own child and family services department. This office can offer different supports, like prevention programs, counselling, foster care, services for children in case. Staff there can also help you with provincial processes, and work with you to find solution to keep children with their families. For more information, please contact your Band Office or your First Nation's child and family services department directly.

Resources

If you have a low income, you may qualify for a **Legal Aid lawyer** to help you with a child protection court cases. Legal aid provides free or low-cost legal representation to people who cannot afford a lawyer.

Before your first appearance in court on any child protection matter brought by the department, you are also allowed one session with duty counsel at the courthouse. Duty counsel can advise you on your rights and obligations if you are unrepresented. There is no financial eligibility criteria and no cost to access duty counsel services.



For more information, please visit the New Brunswick Legal Aid website or contact your local Legal Aid office:

- **New Brunswick Legal Aid Services Commission Provincial Office**
  500 Beaverbrook Court, Suite 501
  Fredericton, NB E3B 5X4
  Phone: (506) 444-2776
  Fax: (506) 462-2290
  Email: info@legalaid.nb.ca

- **Fredericton Office**
  412 Queen Street, Suite 210
  Fredericton, NB E3B 1B6
  Phone: (506) 444-2777
  Fax: (506) 462-2290

- **Moncton Office**
  774 Main Street, Suite 300
  Moncton, NB E1C 9Y3
  Phone: (506) 853-7300
  Fax: (506) 853-8686

- **Miramichi Office**
  673 King George Hwy., Suite 103
  Miramichi Law Courts
  Miramichi, NB E1V 1N6
  Phone: (506) 622-1061
  Fax: (506) 622-8012

- **Bathurst Office**
  275 Main Street, Suite 215
  Bathurst, NB E2A 1A9
  Phone: (506) 546-5010
  Fax: (506) 548-4488

- **Campbellton Office**
  19 Aberdeen Street, Suite 201
  Campbellton, NB E3N 2J6
  Phone: (506) 753-6453
  Fax: (506) 753-5656

- **Saint John Office**
  15 Market Square, Suite 802
  Saint John, NB E2L 1E8
  Phone: (506) 633-6030
  Fax: (506) 633-8994

- **Edmundston Office**
  121 rue de l'Église, Suite 209
  Edmundston, NB E3V 1J9
  Phone: (506) 735-4213
  Fax: (506) 735-7556

- **Woodstock Office**
  633 Main Street, Unit 122
  Woodstock, NB E7M 2C6
  Phone: (506) 328-8127
  Fax: (506) 328-8362

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