Journey to Light: A Different Way Forward

Final Report of the Restorative Inquiry – Nova Scotia Home for Colored Children

This Final Report of the Restorative Inquiry – Nova Scotia Home for Colored Children is respectfully submitted by the Commissioners, known as the Council of Parties, in fulfillment of its Mandate and Terms of Reference pursuant to the *Public Inquiries Act*, c.372 RSNS 1989, *as amended* 2015, c.50.

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Final Report of the NSHCC Restorative Inquiry

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CHAPTER ONE

A Different Way, A Different Report

Introduction

This is the Final Report of the Nova Scotia Home for Colored Children Restorative Inquiry. The tag line for the Inquiry is: *A Different Way Forward*. This report reflects that different way, in terms of both its content and its structure, and should be read and used in that light. This Chapter provides an overview to the Restorative Inquiry and, importantly, to this Report.

Background: A Restorative Inquiry for the Nova Scotia Home for Colored Children

The Nova Scotia Home for Colored Children Restorative Inquiry was established following a 17-year journey for justice by former residents of the Nova Scotia Home for Colored Children (NSHCC, or the Home). It was established under the authority of the *Public Inquiries Act* following a collaborative design process involving former residents, Government, and community members. This public inquiry was the first of its kind in Canada (and, it appears, internationally) to take a restorative approach. The Inquiry was a part of the Government of Nova Scotia's commitment to respond to the institutional abuse and other failures of care experienced by former residents of the Nova Scotia Home for Colored Children.

In establishing the Restorative Inquiry, the Government of Nova Scotia recognized that the history, experience, and legacy of the Home reflects the systemic and institutionalized racism that has shaped Nova Scotia's history and continues to impact the lives and experiences of African Nova Scotians to this day.

The Restorative Inquiry was established following an official apology from the Government of Nova Scotia for the harms related to the Home and the systemic racism that lay at its roots.

Official Apology, October 2014

Nova Scotia

ON BEHALF OF THE GOVERNMENT OF NOVA SCOTIA, I apologize to those who suffered abuse and neglect at the Nova Scotia Home for Colored Children.

It is one of the great tragedies in our province's history that your cries for help were greeted with silence for so long.

Some of you have said you felt invisible. You are invisible no longer. We hear your voices and we grieve for your pain. We are sorry.

Some of you faced horrific abuse that no child should ever experience. You deserved a better standard of care. For the trauma and neglect you endured, and their lingering effects on you and your loved ones, we are truly sorry.

We thank you for showing such courage and perseverance in telling your stories. Your strength, your resilience, and your desire for healing and reconciliation should be an inspiration to all Nova Scotians.

To the African Nova Scotian community: we are sorry. The struggle of the Home is only one chapter in a history of systemic racism and inequality that has scarred our province for generations.

African Nova Scotians are a founding culture in our province—a resourceful people of strength. The Home for Colored Children was birthed in the community as a way to meet a need that was not being met.

We must acknowledge that in many ways, and for many years, we as a province have not adequately met the needs of African Nova Scotian children and their families. We are sorry.

As Nova Scotians—as a people, walking together—we must do better.

An apology is not a closing of the books, but a recognition that we must cast an unflinching eye on the past as we strive toward a better future.

We are sorry for your suffering, we are grateful for your courage, and we welcome your help in building a healthier future for all of us.

The Honourable Stephen McNeil
Premier of Nova Scotia

October 10th, 2014

The Restorative Inquiry was established as a key mechanism to ensure that the apology would not be "a closing of the books, but a recognition that we must cast an unflinching eye on the past as we strive towards a better future." It was established in response to the call for justice by former residents of the Home. Former residents began to break the silence regarding their experiences in the Home in 1998 when several former residents came forward to share their stories. They ultimately turned to the legal system through criminal and civil proceedings in search of justice for the harms and abuses they suffered.

As more former residents came forward, several formed the organization VOICES — Victims of Institutional Child Exploitation Society — to advocate for, and support, former residents, and to ensure their experiences and voices remained central in the search for justice. They came together as a group for the first time at a retreat in 2012. As they gathered together to support one another they used a wooden carving of Sankofa as a talking piece to ensure everyone had a chance to be heard.

Sankofa is a word and symbol used by the Akan people of Ghana. The word is derived from the words: **SAN** (return), **KO** (go), **FA** (look, seek, and take). It stands for the idea that it is not taboo to go back and fetch that which you have forgotten. As explained by the Carter G. Woodson Center: "Sankofa symbolizes the Akan people's quest for knowledge among the Akan with the implication that the quest is based on critical examination, and intelligent and patient investigation. The symbol … is based on a mythical bird with its feet firmly planted forward with its head turned backwards. Thus, the Akan believe, the past serves as a guide for planning the future. To the Akan, it is this wisdom in learning from the past which ensures a strong future.[1]

The symbol of this talking piece reflected the former residents' vision of the way forward on what they describe as their "journey to light." It is this vision that shaped and guided both the design and subsequent work of the Restorative Inquiry as part of the journey.

Sankofa was an important symbol for the former residents and VOICES because it captured their desire for a *restorative* public inquiry. For these former residents, justice required an approach that would look back, not to ascribe blame, but to shed light on the history and experience of the Home in order to learn from it and move forward into a brighter future. This vision of justice required a different way forward. Former residents sought justice then through a restorative approach to settling their legal claims and to a public inquiry. The restorative approach reflected the commitments former residents made to one another: that they would travel on their journey to light in a way that did no further harm and left no one behind. The non-adversarial, inclusive, and collaborative nature of a restorative approach drew former residents to this way to realize their vision of a journey to light.

The Restorative Inquiry: A Different Way Forward

This Restorative Inquiry was about more than using a different process. It was about a different *approach* to understanding and responding to the history and experience of the Home. It was designed to recognize and respond to the relational nature of the harms, and their legacy, by focusing on the contexts, causes, and circumstances, including the institutions, systems, and structures that shaped, facilitated, and contributed to the history and experience of the Home. Through this approach, it was clear how these harms reached from the individuals directly affected to their families, communities, and across generations. The restorative approach of the Inquiry did not look at incidents or issues in isolation or out of context, nor did it seek answers by searching for who was to blame. The Inquiry considered individual harms *through* their contexts and causes. It sought to understand these harms by looking at the reasons the Home was created, the complex relationships and systems involved, and the connection to systemic and institutionalized racism in Nova Scotia. This work required consistent and careful attention to relationships within the African Nova Scotian community and between the African Nova Scotian community and the Government. Through a restorative approach, the Inquiry:

- Asked who else was involved or affected? Who else can affect the outcome or contribute to understanding of moving forward? A restorative approach invites and engages those connected to be part of the process.
- Revealed how individual harm was connected to broader or systemic issues.
- Focused on developing shared responsibility and collective action to address harms to ensure they do not happen again.
- Produced actions, plans, and commitments for the future, not just pay back for the past.

As will be shared in the pages of this Report, the restorative approach supported a complex understanding of what happened, who was involved and affected, and the nature of the harms and their legacies, including the historical, social, and political context of the Home. The Inquiry looked back in order to understand what happened, who was affected/harmed, who was responsible, and who could affect the outcome or future. It looked forward in order to determine what matters about what happened for the future, and what needs to be done to address the situation (the harms and the related issues) to build the conditions so things are better in future.

The history and experience of the Home revealed three central issues the were the focus of the Inquiry's work: responding to institutional abuse (and other failures of care); the experience of children and young people with the system of care; and addressing systemic racism. These central issues are complex and interrelated. Attention to these issues revealed the need for

fundamental changes at the level of systems, structures and services – to why and how they work. The Inquiry recognized that often governments and agencies have resisted the idea of a fundamental shift in the structure of systems and ways of working. We have come to understand this is not merely a lack of will, but rather of knowledge, capacity and sometimes skill. Such change takes a long time – it takes patience that is often lacking or impossible in the face of frustration and public outrage at urgent and pressing problems and failures. In place of a fundamental shift, efforts have generally focused on coordination of silos and systems to try to make things better. These efforts have made things better – they have helped ensure things are done right. However, they have not brought about a real and lasting difference in terms of doing the right thing by young people, families and communities. For that, the Inquiry recognized, we need relational and integrated ways of thinking, working and of structuring our systems and services. Through its phases of work the Inquiry sought to secure the relationships, learning and understanding required to plan and take action needed for such a fundamental shift.

The Inquiry was restorative then in terms of the outcome at which it was aimed — the difference it sought to make for the future. But it was not merely a mechanism to achieve an outcome in the future. The Restorative Inquiry process itself was a restorative experience and modelled this approach. As detailed further in this Report, it was restorative — relational, inclusive, participatory, collaborative, and future focused — in its design, operation, and the outcome it produced. For example:

- It was designed through a restorative process that facilitated parties and stakeholders to come together to plan this Inquiry as a collective responsibility.
- It was led by a group of commissioners representing the central parties who worked collaboratively as a Council of Parties.
- The Council of Parties took a facilitative approach to its work with parties and participants in the Inquiry.
- Parties actively participated together through the Inquiry to build relationships, learn and understand, and plan and take action.
- The Inquiry was designed and implemented as a catalyst for change — oriented to action aimed at making a difference for the future.

The pages of this Report elaborate and share the "different way forward" of the Restorative Inquiry. It details *why* this Inquiry was different, *how* it was different, *what* difference it has made, and *what* it revealed in terms of what is needed for a different future.

A Different Way Forward: A Different Report

The different way forward of the Inquiry is reflected in the nature and purpose of this Report.

The triggering moment for this different way forward rested on the bravery and persistence of former residents. They raised their voices, daring to speak about that which for so long had been unspeakable. This first step broke the silence that had been held for generations about their experiences in the Home. When they spoke, they were met with silence and they felt silenced by authorities and community. The silence in their communities was born of fear, protectiveness, love, and pain. Yet the former residents persisted. Silent no more, they spoke of past harms, and of their commitment to a journey to light for a better future. They spoke in ways that invited others – from community and Government – to add their voices and to join in this journey to light.

This Report is an important part of ensuring those voices continue to be heard — that the silence that was broken is filled with a shared understanding of the past and what it means for our collective future. The Report tells the story of the complicated history of the Home. It is not, as some would have it be, simply a story of bad actors and actions. It requires attention to the context, causes, and circumstances that shaped processes, roles, patterns of interaction, and behaviours. It is a difficult story of how systems and ways of working structure relationships and impact how we think, act, and react to one another.

The story of the Home is a decidedly human story. The Inquiry took a restorative approach to ensure a human-centred process and response. It is essential, then, that this Report reflect the human-centred nature of the Inquiry process. It reflects the voices of those who came together within the Inquiry process. This Report will not be a surprise to those whose collective efforts contributed to the work and outcomes of this process. Rather, it should reflect their experiences as a foundation for further and future efforts. Others, too, including the public, need this Report to share this story and how this process worked so they might be able to find and understand their part in this different way forward.

It was important in preparing this Report to ensure that it shared this way of working and what we came to learn and understand in and through it.

The different approach to design and implementation of this Inquiry did result in different outcomes. It is likely that readers will flip through this Report to the end, seeking out a list of recommendations as is commonplace for public inquiries. Many will be looking for an itemized list – complete with details about who the recommendations are aimed at and the actions, timelines, costs, and outcomes expected.

Part of the impetus to take a different approach to this Restorative Inquiry was the hope for better outcomes and impacts through the process. The former residents wanted what happened to them

to matter — to make a difference — for the future. The Restorative Inquiry was designed for this purpose. To this end, the commissioners on the Council of Parties fulfilled their role differently. They did not determine the facts and then decide what should happen on their own. Rather, through the Inquiry, they facilitated the relationship building needed to learn and understand what happened, figure out what to do about it, and how to bring about the changes needed. This approach made a difference to the process and its outcomes. It is different in a number of ways that are important to understand before reading this Report or searching for its "recommendations". The following points are elaborated at the beginning of Chapter 7 and provide context and caution for those who seek to reduce the outcomes of the Inquiry and this Report to a checklist of recommendations.

- **This Report is not only the Council of Parties' Report – it is not their plan or recommendations alone.** The Council actively engaged with participants to support identification of possible responses or actions needed to support the necessary shifts in understanding and action (see Chapter 6) to address its central issues. The determination of the shifts needed and the ideas and actions for change taken, underway, or proposed came out of the collaborative processes of the Inquiry and reflect the considerable knowledge, insight, and commitment of participants towards such changes. This Report reflects the collective work of the parties who participated in the Inquiry.
- **The ways forward are not intended as isolated actions — it is not a "checklist" of what to do.** A better analogy might be to consider it a road map providing information, guidance, and support for the journey ahead. The map reflects the terrain and possible routes. We have highlighted some pathways but really focused on where we are going and how we will travel because this is essential to a successful journey.
- **Planning and action are already underway.** Recommendations in a traditional inquiry process generally presume action will come after the process, that parties are waiting for the recommendations to tell them how to move ahead. The parties in the Restorative Inquiry process were committed from the outset to the idea that the purpose of the Inquiry was to support change in real time. Such change has happened within the process through the building and shifting of relationships, perspectives, and understanding. This experience of working together in a different way has modelled how to work in restorative ways in the future. Parties have not had to wait on findings and related recommendations at the end of the Restorative Inquiry to begin to make a difference. The process was designed to share learning and understanding throughout the process among the parties with interests and responsibilities to ensure it could be mobilized to make a difference.

- **This Report does not offer a complete list of the actions, plans, commitments, and recommendations that will be needed.** The actions, plans, commitments, and recommendations emerging from the Inquiry are only a start, or partial list, of what may be required or helpful on the journey ahead. In considering what actions, plans, commitments, and recommendations to focus on, the central concern was to establish and support the conditions needed to make a lasting difference on the central issues of systemic racism, the experience of care, and response to institutional abuse and other failures of care. The actions, plans, commitments, and recommendations provided in this Report are not the final word on what needs to happen, but are intended as a start to shifting our approach in order to move forward in a different way.
- **The success of outcomes from the Restorative Inquiry should not be measured by the different things that are done, but against why and how they were done.** Assessing the success of the outcomes and the nature of the parties' commitment to the way forward cannot be based simply on what they get done— on whether the actions, plans, commitments, and recommendations described in Chapter 7 are completed. Of course, this Report and the plans, commitments, and recommendations detailed in Chapter 7 are intended to provide a measure of accountability and guidance to ensure parties live up to the shared responsibility for collective action flowing from the Restorative Inquiry. The suggestion that the plans, commitments, and recommendations should not be treated as a checklist is not meant to weaken their power and influence over what happens next. Rather, suggesting that the measure of success must consider the *impact*, and not simply the actions taken, requires more, not less, scrutiny and attention to ensuring parties follow through with the actions, plans, commitments, and recommendations. The need for flexibility is contemplated in terms of the implementation of various plans, but this does not permit a compromise on the underlying commitments to *why* and *how* they must be fulfilled. Chapter 6 provides a clear articulation of the commitment to a shift in thinking and practice that underlies planning and action aimed at making this difference. It requires shifts at the level of ideas, structures, and systems. Actions must be rooted in and measured in terms of their reflection of these deeper and more lasting shifts.

Overview of Report Chapters

The Report follows the wisdom and spirit of Sankofa. Chapter 2 provides an account of how the Inquiry undertook this work. Chapters 3 and 4 reach back, as Sankofa does, to find that knowledge we need to gather to bring forward into the future. Chapter 5 brings that knowledge forward from the past as it offers an examination of the history and experience of the Home and the former residents' journey to light. Chapter 6 shares what we have learned from the past about what matters for the way forward on these central issues. It faces forward, as Sankofa does, and draws on the lessons from the Home to examine these central issues in the present and the changes needed to make a difference. Chapter 7 shares the actions, plans, commitments, and recommendations made through this Inquiry process aimed at making this difference for the future.

The six additional chapters that follow this introductory/overview chapter are as follows:

Chapter 2: The Restorative Inquiry: Mandate, Structure, Approach & Process

As its title suggests, Chapter 2 explains the design, mandate, and structure of the Restorative Inquiry. It details the restorative approach that shaped the Inquiry throughout and distinguished it from traditional models of public inquiries. Its processes and operations are described, including their scope, breadth, and depth. This chapter offers important context for how our understanding of the history and experience of the Home was developed and the way forward discerned.

This chapter also provides an important overview of the restorative approach to this Inquiry. This approach has garnered significant interest for its future potential here in Nova Scotia, as well as nationally and internationally. This chapter was written to share the restorative approach to inquiry, as it was developed through this process, so that it might support future consideration or efforts of this different way.

Chapter 3: The History of the Nova Scotia Home for Colored Children: Governance, Operations & Living Conditions

This Chapter provides an overview of the history, operations, and the resulting living conditions and experiences of the residents of the Nova Scotia Home for Colored Children. More than a simple chronology or institutional history, the chapter is framed by a recognition of the importance of a range of institutional relationships that governed the nature and operations of the Home. The chapter discusses the formative and influential nature of these institutional relations at the outset because developments in its operations throughout the history of the Home reflect these relations. The chapter opens with an overview of the origins of the Home. The Home is deeply rooted in the history of the African Nova Scotian community, in their values, vision, and commitment to community and in their struggle and resilience in response to the

systemic racism that has marked their lives and experiences in Nova Scotia for over 400 years. The story of the Home is deeply entwined with the history of this province and the African Nova Scotian community.

This chapter is not intended as a complete or definitive history of the Home. It approaches the history of the Home through the lens of the three issues identified through the Inquiry as most central to making a difference for the future. The Inquiry examined the history of the Home through the lens of these issues. Chapter 3 shares the Inquiry's examination of the facts, context, conditions, and circumstances that are most significant to understanding the history and experience of the Home for this purpose.

Chapter 4: The Journey to Light and the Road to the Restorative Inquiry

This chapter traces the former residents' journey to light, from the first revelations about the harms and abuses they experienced as young people at the Home through to the establishment of this Restorative Inquiry. The chapter details the responses to their institutional abuse (and failures of care) by Government, the Nova Scotia Home for Colored Children, and by some within the African Nova Scotian community. It traces former residents' efforts to seek justice through the criminal and civil justice systems and, ultimately, through the establishment of a public inquiry. The efforts and experiences of former residents informed their vision of a different way forward. This chapter provides important background and context for the work of this Inquiry, and, more broadly, for the central issue on responding to institutional abuse (failures of care).

Chapter 5: Understanding the History, Context and Experience of the Nova Scotia Home for Colored Children

This chapter provides an analysis of the history and experience of the Nova Scotia Home for Colored Children and the former residents' efforts to get a response to the institutional abuse and failures of care they experienced at the Home. It examines the factual accounts in chapters 3 and 4 to share what we have come to learn and understand from the history and experience of the Home for the three issues central to the work of the Inquiry. This chapter starts with an examination of systemic racism, given its foundational role in the purpose, founding, and operations of the Home. It then considers the factors that shaped the nature and experience of systems of care that influenced the Home and were reflected within it. Finally, the chapter provides a detailed analysis of the responses to the abuses and failures of care at the Home and draws out the insights and lessons from the historical and more recent responses to former residents' abuse.

Chapters 3 and 4 provide details about what happened at the Home, and in response to the Home, as we have come to know these facts through the Inquiry's extensive review of records and from former residents and others sharing their knowledge and experience with the Inquiry.

Chapter 5 seeks to make sense of what happened. It considers why it happened and what matters about what happened in terms of insights and lessons for the Inquiry's three central issues. The Inquiry has found that the history and experience of the Home is often told but not well understood. This chapter seeks to address some of the long-standing assumptions and misconceptions about the Home and establish a firm foundation of understanding upon which we can draw lessons for the future.

Chapter 6: The Way Forward: What We Have Come to Learn and Understand

Chapter 6 examines the implications of what we came to learn and understand from the history and experience of the Home for the way forward on the central issues of responding to institutional abuse (failures of care), experience of care/system of care, and systemic racism. The Chapter shares what we came to learn and understand through the Inquiry as parties from Government and community were brought together to reflect on these issues from current standpoints and experiences. It reflects the findings made through the work of the Inquiry about what needs to happen to make a difference on these issues in the future. Chapter 6 draws significantly on the knowledge gained from research and experts during the Inquiry. The Inquiry shared this knowledge with parties to deepen their learning and understanding about what matters and what needs to happen next to improve the lives and experience of young people, families, and communities.

Chapter 6 is organized according to the Inquiry's three central issues. It starts where Chapter 5 left off with a focus on the responses to abuse. As this chapter seeks to draw on lessons from the past to consider the implications for the present and the future, it makes sense to start with an examination of the responses to abuse as some of those lessons are still current. The responses to the institutional abuse at the Home are, at least in part, very recent. Indeed, this Inquiry itself is a part of that history. The lessons it offers have immediate application and relevance for our current responses to such abuse and failures of care. The other issues require us to reach back further to the history of the Home and bring lessons into the present as parties considered the current system care and manifestations of systemic racism.

As this Chapter shares learning and understanding about the implications of the lessons from the Home for the way forward on the central issues, it bridges the lessons from Chapter 5 to reflect on their significance for today and to inform the way ahead considered in Chapter 7. Just as Sankofa brings forward that which is good to know from the past for the journey ahead, Chapter 6 connects the lessons from the past with the knowledge of today in support of future action.

Chapter 6 serves as a resource and support for those who are taking or will take action to carry out the plans and commitments and pursue the recommendations flowing from the Inquiry as outlined in Chapter 7. Chapter 6 draws together the learning (background information, evidence,

and other resources) gathered through this process and ensures it is available to support the parties' work going forward. The Council of Parties intend this Chapter (and the Report as a whole) to serve as a helpful resource for the way ahead. We have come to understand through the Inquiry that change will only be real, lasting, and sustainable if it is about more than doing things differently BUT is also rooted clearly in a different understanding of *why* we are doing these things and of *how* to do things differently. Chapter 6 shares why and how we need to shift and change in order to make a difference.

Chapter 7: Making a Difference: Actions, Plans, Commitments and Recommendations

This Chapter shares the actions, plans, commitments, and recommendations that emerged through the Inquiry process. As discussed above, in a traditional public inquiry this chapter would contain the Commissioners' determinations and recommendations for what should happen – for who should do what next. This inquiry process has been different in its approach, its ambitions, and its outcomes. It has sought action in real time in the form of new and changed relations among parties needed to understand the issues and bring about change for the future that will make a real difference. The Inquiry has invited and facilitated collaboration throughout, including in the actions, plans, and commitments for the way forward. This chapter should not be treated as a checklist or read as a complete action plan. Instead, it shares the work achieved and begun through this Inquiry and the work that parties are committed to doing next. It also captures recommendations for the way ahead based on the learning and understanding achieved among the parties within the Inquiry. Yet these actions, plans, commitments, and recommendations are not ends in and of themselves: they are steps towards a fundamental shift in support of a different way forward. Chapter 7 then should not be read merely as a list of different things to do, but as support of doing things differently. It shares what has already been achieved as a result of the relationship building, learning and understanding, and the collaborative planning and collective action supported through the Inquiry. It reflects the elements of the work ahead to support parties' plans and commitments. This chapter will provide an important guide for next steps to make a difference for children, young people, families, and communities in Nova Scotia.

Reading & Using This Report

The Council of Parties has written a comprehensive report. It is expected and hoped that it will not simply be read but *used* in support of the journey ahead to make a difference. It has been written so that people may turn to it, to learn different things, for different reasons. Some will be drawn to learn more about the history and experience of the Home in Chapters 3 and 4: to learn the facts surrounding its founding and operations, and to know more about the former

residents' efforts to seek justice. The former residents have said they felt silenced as children and again as adults when they came forward to talk about what happened in the Home. We hope, for many, this report will help break the silence and support further dialogue about what happened and why. This Report is intended to help support and inform those important conversations. Others will come to this Report in search of lessons from the Home that will help make a difference for the future — for those in care and for those seeking justice. Chapters 5 and 6 reveal the lessons learned and their implications for care, for responses to abuse, and for addressing systemic racism. Yet others will turn to this Report because they seek a different way forward and will look to Chapter 2 to understand the journey and work of the Inquiry as a different way forward. Chapter 7 helps identify those elements that will support the shift in ways of working for the future as laid out in Chapter 6.

In preparing the Report, the Council of Parties sought to create a record and resource to share *why* we were different, *how* we worked differently, and *what* difference it made and needs to make in the future. This different way was fundamentally human centred. It started with a recognition of the importance of first voice and of relationship. This is reflected in the pages of this Report but it cannot be fully captured without hearing from the people who came together to work in this different way. To this end, the Council of Parties worked with filmmaker Sylvia Hamilton to document the process and work of the Inquiry and the difference it made. This Final Report would be incomplete without their voices and reflections. A five-part video series complements and accompanies this report and is available online at **restorativeinquiry.ca**

Endnotes:

[1] As explained on website for the Carter G. Woodson Center for Interracial Education at Berea College in the Kentucky, United States see online at: https://www.berea.edu/cgwc/the-power-of-sankofa/

CHAPTER TWO

The Restorative Inquiry: Mandate, Structure, Approach & Process

Introduction

The tag line for the Restorative Inquiry is: *A Different Way Forward*. This reflects one of the foundational purposes and commitments of the Inquiry. Rooted in the vision of the former residents of the Home who sought this approach, this Restorative Inquiry is not merely a means to an end. It was intended to model the difference it sought. The vision of the Inquiry was to find a different way forward and to be an essential part of the journey — as we have learned through the Inquiry how to travel differently. As the pages of this Report reflect, the restorative approach of this Inquiry is essential to the way forward.

Being different, and new, the Inquiry has also involved significant learning along the way — both about the history and experience of the Home and its lessons and implications for the future, and about *how* we can move forward.

The Inquiry is, then, part of the larger journey to light begun by the former residents of the Home. The journey leading up to this Inquiry is detailed in Chapter 4. It is important, in understanding the Restorative Inquiry, to appreciate that it was designed through a process that was, itself, restorative in its approach. The invitation from former residents to join in the journey to light, and the need to take a different approach to public inquiry as part of this journey, was clear from the outset. The former residents called for a restorative approach to the Inquiry and the Premier agreed.

The former residents, though, wanted a collaborative approach to design the Inquiry in order to ensure the process would have both the structure and the commitment from the central parties needed for success.

Government invited former residents to tell them how they envisioned such an Inquiry and committed to design the Inquiry accordingly. The former residents, though, wanted a collaborative approach to design the Inquiry in order to ensure the process would have both the structure and the commitment from the central parties needed for success. It was agreed that a facilitated, collaborative design process would be used to determine the mandate, terms of reference, and approach of the Inquiry. The Government made the bold and unusual commitment to empower a design team (that included Government as a participant but not as the lead) to collaboratively determine the mandate and terms of reference for the Inquiry. The Government committed it would implement the process as designed.

The design team was selected for both the knowledge and expertise of members, and because of the importance of the relationships and connections that were represented on the team. At the invitation of the former residents' group VOICES (Victims of Institutional Child Exploitation Society) and the Government of Nova Scotia, a 15-member design team was appointed. The design team included former residents, legal counsel, representatives from Government, members of the NSHCC Board, and members of the African Nova Scotian community. VOICES and the Government asked Jennifer Llewellyn, a professor at the Schulich School of Law,

Dalhousie University, and an international expert in a restorative approach, to guide and facilitate the design process. Professor Llewellyn had been a support to VOICES during their advocacy efforts to find a settlement as well as for a public inquiry. Members of the design team were (listed with their relevant positions at the time they served):

- Tony Smith, VOICES
- Gerry Morrison, VOICES
- Tracy Dorrington-Skinner, VOICES
- Sylvia Parris, Nova Scotia Home for Colored Children (NSHCC) Board of Directors
- George Gray, NSHCC Board/African United Baptist Association
- Carolann Wright-Parks, Ujamaa/Greater Halifax Partnership
- Tracy Thomas, Office of African Nova Scotian Affairs
- Gerald Hashey, Nova Scotia Human Rights Commission
- Stephanie MacInnis-Langley, Nova Scotia Advisory Council on the Status of Women
- Kenneth Fells, Black Educators Association
- Michael Dull, Wagners Law Firm
- Michelle Williams, Director, Indigenous Blacks & Mi'kmaq Initiative, Schulich School of Law, Dalhousie University
- David Darrow, Deputy Minister to the Premier and Clerk of Executive Council, Province of Nova Scotia
- Chad Lucas, Executive Council Office, Province of Nova Scotia
- Jennifer Llewellyn, Viscount Bennett Professor of Law, Schulich School of Law, Dalhousie University (restorative expert and facilitator)

Ujima is a Swahili word meaning collective work and responsibility. The principle reflects a commitment to build and maintain community together and make our brothers' and sisters' problems our problems and to solve them together.

The design group called themselves the Ujima Design Team after one of the seven core principles of Kwanzaa–Nguzo Saba. Ujima is a Swahili word meaning collective work and responsibility. The principle reflects a commitment to build and maintain community together and make our brothers' and sisters' problems our problems and to solve them together.

The design team met weekly for 10 months from September 2014 until the launch of the Inquiry in June 2015.

The design team worked through a process that reflected the approach to the overall process being designed. The team took significant time to build trust among the team to facilitate the openness and honesty needed for different parties to be fully engaged within the process. The team undertook a process to learn and understand the scope and nature of the work and issues that would have to be tackled, and then collaboratively planned for action and implementation.

The design team also systematically engaged with those who would be affected or involved with the process to understand what they felt was important and to share the learning and understanding and plans as they were developing. This outreach was also intentionally approached in a way to build the connections and relationships among those important to this different way forward.

The design team produced the Mandate and Terms of Reference for the Restorative Inquiry. The Government established the Inquiry under the *Public Inquiries Act* according to the Mandate and Terms of Reference, as written by the design team.

This Chapter provides an overview of the Restorative Inquiry — how and why it was different. It explains the approach, mandate, structure, processes, and work of the Inquiry. This Chapter provides the context and background for the process through which the Inquiry came to understand the history and experience of the Home, and discern its lessons for today and into the future about the issues most central to the mandate.

This Chapter is also intended to share details of the approach and model of this Restorative Inquiry. The restorative approach to inquiry has attracted a lot of attention nationally and internationally. For example, the United Nations Working Group of Experts on People of African Descent concluded in their report on their visit to Canada:

> The Working Group welcomes the inquiry as a model of restorative justice based on collaborative examination and decision-making and encourages the province's public agencies to engage as fully as possible in the process. The Working Group encourages the federal and provincial governments and agencies to adopt similar collaborative and restorative approaches in addressing similar issues affecting people of African descent in their jurisdictions.[1]

This experience of taking a restorative approach to dealing with historical harms, particularly ones rooted in long-standing relationships of inequality — of systemic racism — is of significance to others in Canada and internationally faced with the work of truth, justice, and reconciliation.

The great poet Maya Angelou said "[h]istory, despite its wrenching pain, cannot be unlived, but if faced with courage, need not be lived again." And Sankofa, the African proverb, counsels us to go back to the past to fetch the seed of a new future.

It is beautiful to see that the Restorative Inquiry's work in examining the experiences of former residents and others related to Home for Colored Children in the larger context of Nova Scotia's history and legacy of structural and institutional racism is following the wise counsel of both Maya Angelou and the Sankofa bird.

And in doing so, you are lighting the way for us in the U.S. as we forge our own path in creating restorative justice-based processes to tell the truth about and transform historical and present-day harms of white supremacy, slavery, mass incarceration, and deadly police practices. The RI teaches us that a US truth process cannot rely on a centralized, hierarchical approach guided by experts and that we must intentionally create decentralized, bottom-up, inclusive and radically democratic processes that elevate the voices of those most directly impacted. The RI teaches us that addressing harm holistically requires attention to recognizing and restoring not only relational, but also structural dimensions of harm. This means working simultaneously on intrapersonal, intragroup, intergroup, and systems levels. You also affirm our belief that circle processes to individually and collectively consider responsibilities and reparative action are well-suited for this type of multilevel work.

Though so much work lies ahead, this is a time to celebrate the completion of this phase of RI's historic accomplishments. I celebrate with you in spirit. I am confident that what you are doing – and what we are beginning to do in the United States, inspired by you – will allow us to face our respective histories' pain with courage so it need not be lived again. It is allowing us to fetch the seed of a new future.

Fania E. Davis to the Restorative Inquiry Public Event on Restorative Approach for Racial Justice – March 2019

Fania Davis & VOICES

Fania Davis is a leading national voice on the intersection of racial and restorative justice. She is a long-time social justice activist, civil rights trial attorney, restorative justice practitioner, and writer and scholar with a PhD in indigenous knowledge. Founding director of Restorative Justice of Oakland Youth (RJOY), her numerous honors include the Ubuntu Award for Service to Humanity, the Dennis Maloney Award for Youth-Based Community and Restorative Justice, the Tikkun Olam (Repair the World) Award, the Ella Jo Baker Human Rights Award, the Bioneers Change Maker Award, and the EBONY Power 100 Community Crusaders Award. She is a Woodrow Wilson fellow, and the Los Angeles Times named her a "New Civil Rights Leader of the 21st Century. She is the author of: The Little Book of Race and Restorative Justice: Black Lives, Healing, and US Social Transformation
(Justice and Peacebuilding)

Part of the contribution, then, the Inquiry hopes to make with this Report is to offer a clear account of the process — its design and implementation — so that others may learn from the process and consider its implications for the future. There is much to be learned about a restorative approach in action from the design and implementation of this Restorative Inquiry. It is also hoped this attention to how the Inquiry worked will provide support for the journey ahead, as discussed in Chapter 7 of the Report. Understanding a restorative approach and how to design processes and ways of working that reflect such an approach are essential to the way ahead charted through this Inquiry.

We do not intend for the particular structure and implementation of this Restorative Inquiry to be ready-made for other situations and contexts. It is not offered as a model in that sense. Rather, it is shared as an example of the application of restorative principles in action, as they are reflected in the design and work of the Restorative Inquiry. The restorative approach of this Inquiry made a difference at every level, to the mandate, structure, and work of the Inquiry. The different way modelled by the Inquiry is described in the sections that follow.

Mandate

The Government of Nova Scotia committed to a hold a public inquiry into the Nova Scotia Home for Colored Children (NSHCC) as part of a comprehensive response to the history and legacy of the Home and the abuse that occurred within it. Further details of this response to abuse and the role of the Restorative Inquiry in it are provided in Chapter 4. The full Mandate and Terms of Reference, as written by the Ujima Design Team, are available on the website **restorativeinquiry.ca**. As set out in the Mandate, the Restorative Inquiry was to:

> Examine the experience of the Nova Scotia Home for Colored Children (NSHCC) as part of the history and legacy of systemic and institutionalized racism, both historic and current, in Nova Scotia.
>
> Examine and seek to understand the experiences of former residents within the NSHCC and the legacy and impact of these experiences for former residents, their families and communities.
>
> Examine the experiences of former residents within the NSHCC for what they might reveal about issues of institutionalized child abuse and prevention and protection in future.
>
> Inquire into how the history and legacy of the NSHCC has impacted not only African Nova Scotian communities but all peoples in Nova Scotia and consider how to address this harmful legacy. It will reveal, reckon with and address this part of the harmful history and legacy of anti-Black racism in the Province of Nova Scotia.

Empower those involved in, and affected by, the history and legacy of the NSHCC to learn about what happened and the contexts, causes, circumstances and ongoing legacy of the harms related to the NSHCC.

Examine the role and contribution of various systems, sectors and institutions in the harmful history and legacy of the NSHCC, including, for example: education, justice, health and community services.

Engage affected parties and all Nova Scotians in collaborative planning and action to address this history and its legacy and create change to secure a better future for African Nova Scotian children and their families and communities.

Educate the public about the history and legacy of the NSHCC.

Contribute to the goal of social change to end the harmful legacy of abuse and ensure the conditions, context and causes that contributed to it are not repeated.

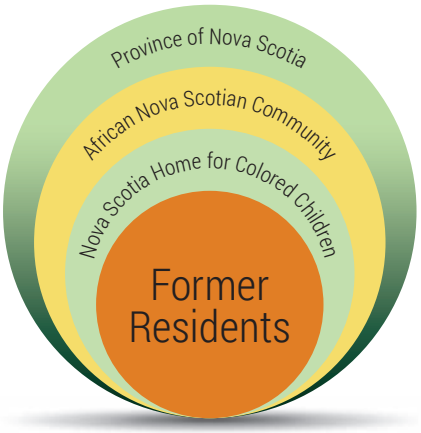
Publicly share the truth and understanding established through the RI and the actions taken, planned and recommended to address systemic and institutionalized racism and build more just relationships for the future.

Affirm and strengthen the cultural knowledge, leadership and health of the African Nova Scotian people and communities as one of Nova Scotia's founding cultures.

Model a restorative approach to conflict resolution.

Create agenda and momentum for further learning and action on related issues of systemic racism that are revealed through the process.

The mandate clearly reflects how central the experience of former residents of the Home was to the Inquiry. It was from the starting point of their experience that the Inquiry broadened its lens to consider the contexts, causes, and circumstances of their experiences and the lessons and implications that extend beyond the Home and into the future. The Mandate then starts with a focus on the experience of former residents, and builds from this to consider the Home, the African Nova Scotian community, and, more broadly, to focus on the province of Nova Scotia. As this image depicts, the focus of the Inquiry was layered and sought to understand the experience of the Home in an integrated and holistic way.



It is clear that the work identified in the Mandate could only get started through the Inquiry process. Indeed, as reflected in the outcomes section of the Mandate and Terms of Reference, the Inquiry is intended to make a contribution to the much larger and more long-term goals of making a difference envisioned by former residents and the design team.

> It is expected that the RI will make significant and substantial contributions toward:
>
> - Truth and understanding of what happened with the NSHCC, including the context, causes, impact, and legacy of harms.
> - Addressing the needs of and supporting healing for former residents.
> - Public recognition and acknowledgment of historic and current systemic and institutionalized anti-Black racism in Nova Scotia through the lens of the NSHCC experience.
> - Modelling ways of confronting and addressing instances and issues of racism in Nova Scotia in the future.
> - Eliminating racism existing at individual, institutional and systemic levels in Nova Scotia.
> - Supporting reconciliation and fostering just relationships within the African Nova Scotian community and between African Nova Scotians and other Nova Scotians.
> - Better relationships and ways of working between African Nova Scotian communities and Government founded on mutual respect and understanding.
> - Recognition and affirmation of the significance and strength of African Nova Scotian culture, communities and leadership as a founding people of Nova Scotia.

The Inquiry was designed to support work towards these outcomes into the future. It was explicitly concerned with facilitating parties to build the relationships, knowledge, and capacity needed to take up this mandated work when the Inquiry process ends.

The design team gave careful consideration at the outset of its work to *why* a public inquiry was important: what was its purpose? Grounded in the vision of the former residents for a public inquiry of a restorative character, members of the design team considered what success would look or feel like for the Inquiry. Through this work, they identified *why* the Inquiry was being established and its purpose was expressed in the objectives and goals set out in the Mandate.

Objectives/Goals

Build Just & Respectful Relationships — Foster relationships of mutual respect, care, acceptance and dignity within and among communities, systems, structures and institutions. Support collective ownership, shared responsibility and collaborative decision-making.

Develop Knowledge and Understanding — Learn what happened, what matters about what happened for the future, who was affected and how, and the contexts, causes, and effects of what happened. Develop understanding of different experiences, perspectives, worldviews and how they have shaped relationships and lives within African Nova Scotian communities and between African Nova Scotians and non-African Nova Scotians in the context of the history and legacy of the NSHCC.

Develop Plans & Take Action — Toward a better future for African Nova Scotian children, families and communities and all Nova Scotians.

Establish Shared Understanding & Seek Just Social Change — To ensure that such harms never happen again by seeking an end to systemic and institutionalized racism. Seek to understand and address the conditions and circumstances that enabled or fostered institutionalized child abuse.

Restorative Approach

Sankofa has been an important symbol of the Journey to Light for former residents and for the Inquiry. When former residents first gathered together at a retreat in 2012 to support one another in their efforts to achieve justice for their experiences at the Home, they used a Sankofa as their talking piece. This symbol has guided the work of the Restorative Inquiry as well. Sankofa is a word from the Twi language of Ghana that is generally translated to mean "Go back and get it." This idea is sometimes represented by the symbol of a bird with its head and neck reaching backwards to gather an egg in its beak while its feet face forward. Sankofa is often associated with the proverb, "Se wo were fi na wosankofa a yenkyi," which translates as: "It is not wrong to go back for that which you have forgotten" or "it is not taboo to go back and fetch what you forgot."[2] While Sankofa reminds us to go back, it is clearly for the purpose of finding what we need in order to move forward. This is a core commitment of a restorative approach. It is forward focused, yet concerned with getting a comprehensive understanding of the past in order to know how to move forward toward a just future. Sankofa reminds us of our relationship to the past. It is significant that Sankofa reaches back for an egg — for something so clearly connected to being and identity, and a reminder of how things came to be. A restorative approach is similarly grounded in a relational world view that pays attention to connectedness. The relational world view informing the restorative approach of the Inquiry reflects Africentric wisdom and knowledge that informed the

design and approach of the Inquiry. The Africentric world view is relationally focused on "oneness with others" (community) and values just relationship within community. It is rooted in a strong belief in the goodness of people and individuals working together. The Restorative Inquiry was particularly reflective of the Africentric values/commitments to:

- UMOJA (Unity) — To strive for and to maintain unity in the family, community, nation, and race.
- UJIMA (Collective Work and Responsibility) — To build and maintain our community together and make our brothers' and sisters' problems our problems, and to solve them together.
- IMANI (Faith) — To believe with all our heart in our people, our parents, our teachers, our leaders, and the righteousness and victory of our struggle.

Sankofa is often associated with the proverb, "Se wo were fi na wosankofa a yenkyi," which translates as: "It is not wrong to go back for that which you have forgotten" or "it is not taboo to go back and fetch what you forgot." While Sankofa reminds us to go back, it is clearly for the purpose of finding what we need in order to move forward.

The importance of relationship and connection was foundational to the design and work of the Inquiry. Relational principles have guided the restorative approach of the Inquiry. These principles not only informed the way the Inquiry has worked, they are also, as described in Chapters 6 and 7, fundamental to how we need to move forward. The guiding principles were established in the Terms of Reference and have been foundational to the different way forward the Inquiry has taken.

The following principles were articulated in the Mandate and Terms of Reference and elaborate the restorative approach of the Restorative Inquiry.

Relationship & Community-focused — Focuses on relationships and not only the individual level. Looks at the interconnectedness of people and issues.

Justice-seeking — Takes as its aim fostering "just" relationships – those reflecting the core commitments of equal respect, care, acceptance, and dignity.

Strengths-based — Recognizes African Nova Scotians as a strong and dignified people in their own right, not defined by marginalization or comparisons but as a founding culture in Nova Scotia. The process should profile and strengthen the leadership of African Nova Scotians indigenous to this province and build stronger community relationships with other peoples, systems and institutions in Nova Scotia.

Do No Harm and Support Healing — Former NSHCC residents' needs and experiences will be central in the process. The RI will take a trauma-informed approach that contributes to healing and well-being while avoiding further harm. The process should seek to "do no further harm" to those involved and their relationships.

Comprehensive/Holistic — Attend not only to particular incidents and issues but also to their causes, contexts and implications. Examine the experience of the NSHCC as part of the legacy of systemic and institutionalized racism, both historic and current.

Contextually Grounded — Responsive to the needs of parties within the process. Processes will be flexible and responsive, guided by principles and adaptive to the needs of the parties and the context.

Inclusive, Participatory and Accessible — Processes should include the particular people, groups and communities relevant to the issue(s). They must be concerned to include those affected or who can affect the outcome of a situation. Inclusion must be meaningful and make a difference to the process and its outcome. It must involve engaged and active participation within collaborative processes. The RI must foster collective ownership and shared responsibility and decision-making. While not every process will be held in public or open to everyone who wishes to participate, every process will consider how to ensure the knowledge and learning gained therein is accessible to the broader public. The overall work of the RI must be done in the public interest and for public benefit.

Action and Change-Oriented — Oriented to meaningful, sustainable social change to achieve justice in and through the relationships, systems and institutions that affect the well-being of African Nova Scotian families and communities, in order to improve relationships and understanding throughout Nova Scotia.

The Inquiry was guided by these principles in its structure and approach to its work. In addition, as described in Chapter 6, these principles are reflective of the principles of a restorative approach that underpin the actions, plans, commitments, and recommendations to address the central issues in the Inquiry's work.

Restorative vs. Traditional Public Inquiry

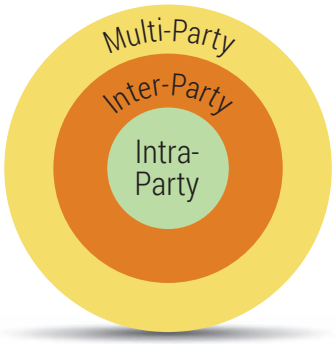
The restorative approach to this public inquiry sets its approach apart from the traditional model of public inquiries in Canada and elsewhere.[3] The resulting model for a restorative inquiry differs, in both focus and design, from traditional public inquiry models. There is, in fact, no mandated model for public inquiries, and often the mandates and terms of reference presume, but do not specify, the approach to be taken. There has been some creativity in the processes of more traditionally constituted inquiries, including, for example, the Mackenzie Valley Pipeline Inquiry (otherwise known as the Berger Inquiry, after its Commissioner Justice Berger).[4] Generally, though, such innovations are undertaken *within* the frame of a traditional

inquiry design and structure. Public inquiries are generally structured and reflect the norms of the formal legal procedures. The table below highlights some of the differences between the typical traditional inquiry model and the restorative approach of this Inquiry.

Traditional Public Inquiry	Restorative Approach
Government or legal authority determines scope, terms of reference	Affected parties (Government, former residents, community partners) work together to design the process
Sole commissioner (often sitting or retired judge) or small panel selected to lead inquiry	Process guided and overseen by a council of parties (representative of those most affected or connected)
Meetings/hearings are judicial in nature, often held in a courtroom	Meetings held in a flexible variety of settings, from small groups to wider gatherings, depending on need
Process focuses on what happened, what went wrong — "finding blame"	Process examines bigger context: what happened, why it happened, why it matters for the future — understanding responsibility
Proceedings can have an adversarial feel, with "witnesses" enlisting legal counsel for support	Processes take a non-adversarial and participatory approach; participants feel supported and welcomed to give their perspectives
Witnesses can be subpoenaed to appear in a court setting	Subpoenas less important in a collaborative approach where all parties have a say in the process; used only in support of the collaborative process with participants prepared and supported
Commissioner/small panel develops report and recommendations at the end of the Inquiry	All affected parties provide input that helps determine next steps; information developed and shared and actions can be proposed/enacted throughout the process
Commission delivers report and recommendations to Government, with no authority to make change or ensure follow-through	All parties, including decision-makers and community leaders, have a stake and role in developing and following through on recommendations and outcomes; final report shares actions taken within the process as well as plans and commitments for the future
Outcomes typically involve new or updated policies/procedures for public agencies	Outcomes should include improved relationships between agencies and communities, better ways of working together; end result not only actions but a capacity for, and commitment to, sustainable change

The Restorative Inquiry took a restorative approach to its processes. These processes brought participants together in facilitated dialogue often using circles to support development of mutual understanding and collaboration. Care was taken to reflect and draw upon culturally appropriate traditions that are consistent with a restorative approach. The use of circles is commonplace in restorative processes as they draw knowledge and practice from Indigenous and traditional communities. Circles are a helpful model because they disrupt common adversarial assumptions about justice/settlement processes and provide a conceptual and practical model for thinking about the connection and interrelationship of those involved in the process. Circles also help to share space to talk and deliberate together — to come to an understanding of what happened and what needs to happen next.

The Council of Parties worked to prepare and facilitate parties to come together in this restorative way. This included careful consideration of who should be involved, with whom, and on what issues to advance the work of the Inquiry. The Inquiry took a flexible approach to processes in order to be responsive to the learning and developments within the process and the needs of parties. Processes were designed accordingly. Processes were undertaken at different levels, or in different configurations, throughout the Inquiry. As detailed below, the Inquiry worked within individual parties (for example, with former residents, African Nova Scotian community members, and individual Government departments or agencies like the RCMP). At other points we brought a few parties together to address a specific issue (for example, justice system stakeholders, former residents and young people with care experience, the AUBA and Home previous Board members, community-based agencies connected to young people in care, etc.), and other processes engaged multiple parties to share learning and understanding or to consider ways forward (including processes that brought together former residents, representatives of the Home, members of the African Nova Scotia community and the AUBA, or processes involving multiple Government departments and agencies together with former residents and community-based organizations).



For each process and part of the Inquiry's work, the Council of Parties gave careful thought to the parties and participants that should be involved. This included consideration of how members of wider groups, communities, and the public with an interest or stake in the matter would be connected to the process, or, more generally, to the work of the Inquiry. In this way, significant attention was paid throughout the Inquiry to the public interest as is essential for a *public* inquiry. In a traditional approach, the *public* character of the inquiry is most obvious in the conduct of hearings *in public*. Of course, inquiries are also public in character by virtue of the public authority by which they operate and the public account they offer of the matter, typically through a final report. The Restorative Inquiry was public in these senses, but did not utilize public hearings — it

was not held "in public" in this way. It was, nevertheless, a *public* inquiry in terms of the engagement of the public. As we will discuss further in this Chapter, concern for connection with segments of the public (parties and communities) drove the design of the Council of Parties as a group of commissioners with connections to the central parties working collaboratively to lead the Inquiry. As noted, the Council of Parties paid attention to the connections to various "publics" in identifying who should be involved in various processes. As part of this determination, it recognized different issues had more relevance for some segments of the public than others. The processes focused on engagement with those sectors or groups in the public with a stake in the issues.

Finally, the Inquiry maintained a commitment throughout to inform and engage the public in its work. As detailed in the final section of this Chapter, during the initial part of its mandate, the Inquiry travelled throughout the province (starting with the regions outside of the Halifax Regional Municipality) focused on connecting with African Nova Scotian communities to share the mandate and plans for the Inquiry and to seek input. Similarly, during its final phase, the Inquiry travelled throughout the province again to share the learnings, understanding, and plans for actions that were emerging from the process. During its mandate, the Inquiry shared its work publicly through conference presentations and other public events.

Finally, the Restorative Inquiry was committed to sharing its learning and work during the process through Public Reports. The Inquiry produced three such reports during its mandate which are available at **restorativeinquiry.ca**:

1) Council of Parties Report (Winter 2016/17)

2) Council of Parties Second Public Report (Winter 2017/18)

3) Council of Parties Third Public Report (Fall 2018)

At the release of each Public Report, the Council of Parties provided a briefing and held a press conference in order to help inform the general public about the ongoing work of the Inquiry.

The work of the Inquiry was also the subject of significant public involvement by virtue of the participation of Government within the process. The participation of Government is treated in greater detail in this Chapter. What is important to understand, regarding the public nature of the Inquiry, is that deputy ministers from the government departments most connected to the Mandate were responsible to share with the legislature (and, thus, the public) their participation and actions in support of the mandate, objectives, and goals of the Inquiry. They fulfilled this responsibility by making regular reports to the legislature. They made two such reports during the Inquiry's mandate and are required to make a third and final report a year after this final report of the Inquiry is released.

1) Reflection and Action Task Group 1st Report to the Legislature

2) Reflection and Action Task Group 2nd Report to the Legislature

Structure

The Inquiry was designed to reflect a restorative approach in both its mandate and its structure. To this end, the Inquiry was not headed by one appointed commissioner — a judge or lawyer — as is typical. Judges are often appointed in order to assure independence. Independence is important for impartiality. However, independence is often achieved by appointing commissioners that stand apart from the parties and the issues. While this can secure impartiality and/or its appearance, it can also generate distance. Such distance from the issues or the parties is less helpful in a facilitated process that requires the trust of the various parties to bring them into a collaborative process with others. The mandate of the Inquiry required commissioners with significant knowledge, appreciation, and connections to the issues and the parties in order to design, facilitate, and support working in a different way.

This does not mean the Restorative Inquiry did not value impartiality. However, rather than achieving it through distance, it secured it through the nature of relationships facilitated among the parties. The process was marked by transparency and responsibility among the commissioners on the Council of Parties and with the parties participating in the Inquiry. The collaborative nature of the process supported the conditions for impartiality and good judgement within the Inquiry process. As legal scholar Jennifer Nedelsky explains:

> What makes it possible for us to genuinely judge, to move beyond our private idiosyncrasies and preferences, is our capacity to achieve an "enlargement of mind". We do this by taking different perspectives into account. This is the path out of the blindness of our subjective private conditions. The more views we are able to take into account, the less likely we are to be locked into one perspective .... It is the capacity for "enlargement of mind" that makes autonomous, impartial judgment possible.[5]

The makeup of the Council of Parties and the inclusive and participatory nature of the Inquiry process made such "enlargement of mind" possible and thus ensured impartiality by building relationships in which commissioners and parties could learn and understand the perspectives and experiences of others.

The Inquiry was designed to protect independence too, but not in the sense of distance or separation. Rather, it had independence in its institutional relationship with Government. This independence was also essential to Government participation and collaboration within the process alongside others in ways that enabled shared power, responsibility, and built trust. The Restorative Inquiry needed this independence in order to facilitate processes without being controlled by one party or another.

The Inquiry's independence was also provided for in the *Public Inquiries Act* under which the Inquiry was established. It was also reflected in the careful attention to the administrative arrangements and requirements that were put in place to support the work of the Inquiry. They were designed to ensure there were no mechanisms of control for Government into the substantive work of the Inquiry.

So, while independence was key for the success of the Inquiry, it was not achieved by appointing a commissioner without a connection to the matter. It was recognized at the outset that the Inquiry required knowledge and commitment from a range of parties that could leverage their connections/relationships to build trust so parties would be willing and able to participate in the Inquiry. For this reason, the decision was made to appoint a group of commissioners to work collaboratively as members of the Council of Parties to lead the work of the Inquiry. This was in keeping with the principle of Ujima — shared work and responsibility. The structure and approach of the Council of Parties was essential to the success of the Inquiry. The Council is described further below. It is important first, though, to note the centrality of former residents to the leadership of the Council of Parties and the work of the Inquiry.

A. VOICES

The VOICES group (Victims of Institutional Child Exploitation Society) is a group formed by former residents of the Home to support one another and advocate on their behalf. VOICES played a central part in envisioning and designing the Restorative Inquiry.

The work of former residents and VOICES is detailed further in Chapter 4 of this Report. Former residents' experiences were a central starting point for the work of the Inquiry. However, they were more than the object of study for the Inquiry. Former residents played a fundamental leadership role in the Inquiry. They were part of the design team and their leadership continued on the Council of Parties. Former residents also participated during all phases of the Inquiry, playing an active role in the process to understand their experiences and ensure that it made a difference for young people, families, and communities in the future. The central voice of former residents at the heart of the Inquiry helped ensure that the process remained human-centred.

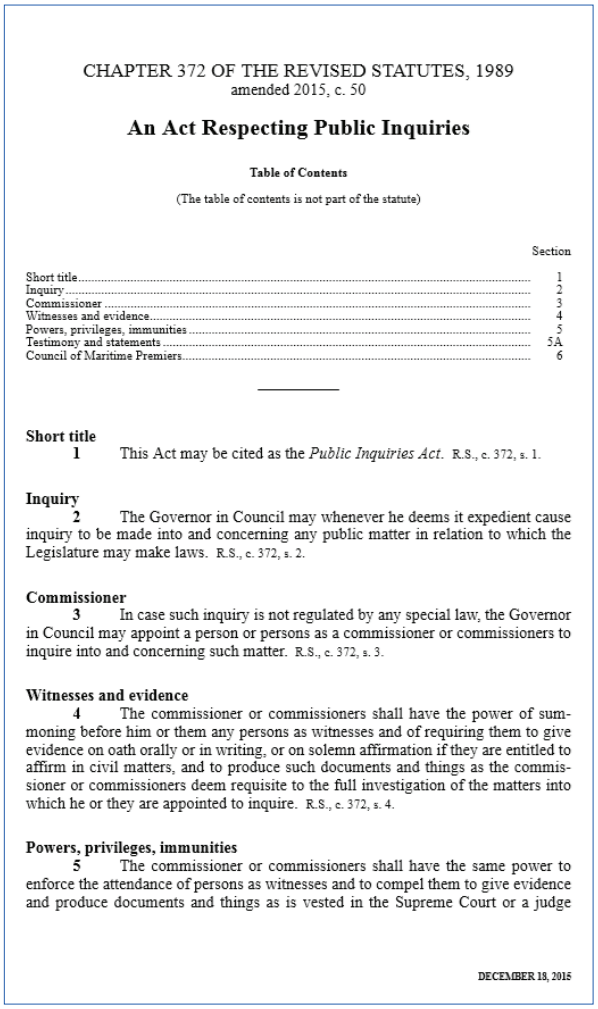
The central voice of former residents at the heart of the Inquiry helped ensure that the process remained human-centred.

To support the leadership and involvement of former residents in the Inquiry, and to ensure the commitment to do no further harm was met, the Inquiry worked in collaboration with VOICES. VOICES' membership on the Council of Parties and its partnership was core to the work of the Inquiry. VOICES was resourced during the design process and throughout the Inquiry to play its role. It was not, however, folded into the Inquiry but remained an independent organization. VOICES' distinct role was essential to the process to ensure they maintained their connections with former residents and could bring their knowledge and perspective to the work. It provided an additional mechanism for former residents to gain information and provide input during the Inquiry.

It is important to be clear that placing former residents at the centre of concern within the Inquiry did not mean that the burden of the mandate was theirs to carry. Indeed, the establishment of the Inquiry was a recognition of the public responsibility to reckon with what happened to former residents in the Home, and to take its lessons and apply them to ensure a better future. It was not the former residents' responsibility to carry this work. The mantra "nothing about us, without us" has, though, guided both VOICES and the Inquiry. The Inquiry process has sought to ensure a central place and space for former residents' voices within the process, while being clear that its work is a collective responsibility.

B. Council of Parties

The Inquiry was led by a group of Commissioners appointed by Order-in-Council under the *Public Inquiries Act*. Under that Act, Commissioners have the power and authority of a Supreme Court Judge in civil matters to compel witnesses and the production of evidence. Commissioners also enjoy the same privileges and immunities as Supreme Court Judges.



CHAPTER 372 OF THE REVISED STATUTES, 1989
amended 2015, c. 50

An Act Respecting Public Inquiries

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(The table of contents is not part of the statute)

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Short title

1 This Act may be cited as the *Public Inquiries Act*. R.S., c. 372, s. 1.

Inquiry

2 The Governor in Council may whenever he deems it expedient cause inquiry to be made into and concerning any public matter in relation to which the Legislature may make laws. R.S., c. 372, s. 2.

Commissioner

3 In case such inquiry is not regulated by any special law, the Governor in Council may appoint a person or persons as a commissioner or commissioners to inquire into and concerning such matter. R.S., c. 372, s. 3.

Witnesses and evidence

4 The commissioner or commissioners shall have the power of summoning before him or them any persons as witnesses and of requiring them to give evidence on oath orally or in writing, or on solemn affirmation if they are entitled to affirm in civil matters, and to produce such documents and things as the commissioner or commissioners deem requisite to the full investigation of the matters into which he or they are appointed to inquire. R.S., c. 372, s. 4.

Powers, privileges, immunities

5 The commissioner or commissioners shall have the same power to enforce the attendance of persons as witnesses and to compel them to give evidence and produce documents and things as is vested in the Supreme Court or a judge

DECEMBER 18, 2015

In accordance with the Inquiry design, reflected in the terms of reference, the Commissioners served together on the Council of Parties which worked collaboratively as the overall governance and decision-making body for the Restorative Inquiry. The Council of Parties ensured the process was implemented and worked according to its guiding principles and was consistent with the mandate and objectives.

The Council of Parties was appointed by the Governor-in-Council (Cabinet) as required by the *Public Inquiries Act*. However, the Commissioners were recommended by those members of the Ujima Design Team who served as an Interim Council of Parties at the beginning of the Inquiry's mandate. This Interim Council of Parties was responsible for the transition to ensure the Inquiry was established consistent with the vision underlying the terms of reference.

The work of the Interim Council of Parties included establishing a framework for Government support that would protect the Inquiry's independence while,

at the same time, realizing the Government commitment to resource and support the work. This was accomplished by setting up a Government agency to provide for administrative support and accountability. The Interim Council designed the agency with significant care to ensure the Inquiry would have the scope needed to reflect a different way of working according to its terms of reference. The Interim Council also provided recommendations with respect to membership on the permanent Council of Parties. In doing so, they balanced the need for continuity with the design team to support knowledge transfer about intentions and vision with the need to expand participation and representation. Some members of the design team agreed to continue to serve on the Council of Parties; others agreed to continue to support the work of the Inquiry in other capacities (as staff or advisors).

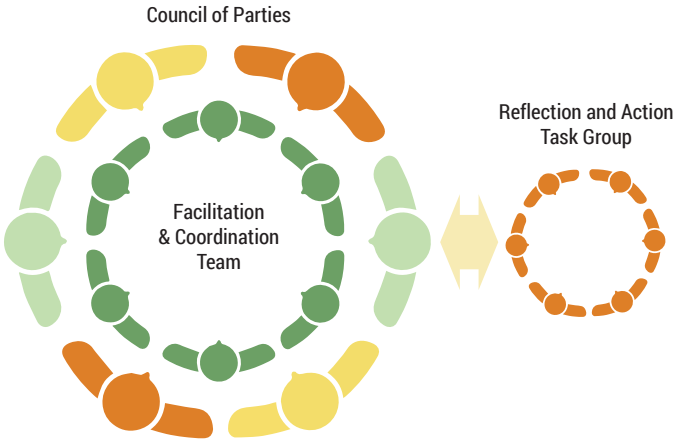
The Interim Council of Parties also prepared the job descriptions and hired initial members of the facilitation and coordination team (described below) to provide support for the work of the Council of Parties.

The Interim Council of Parties thus filled a gap in terms of the work required to move from design (mandate and terms of reference) to operations. This enabled the permanent Council of Parties to begin their work focused more on the substance of the work than on setting up the institutional infrastructure. Although, of course, there remained significant work for the Council of Parties, both initially and throughout the mandate, to discern and ensure operational needs. Indeed, such questions occupied a significant amount of time and attention for the Council of Parties. This is, perhaps, to be expected, given that this is the first time an Inquiry has sought to work restoratively. The Council had to pay close attention to how the Inquiry would work in ways that modelled a restorative approach. This was uncharted ground in many ways, including its implications for the structure of relationship with Government, the approach to deliberation and decision-making within the Council of Parties, and the role and relationship of staff to Council and within the work of the Inquiry.

The work of the Interim Council of Parties was helpful in addressing some of the structural, administrative, and operational issues to facilitate the initial work of the Council of Parties.

As indicated in the Mandate and Terms of Reference the Council of Parties was the mechanism through which the Commissioners would fulfil their duties to direct and lead the Inquiry. The fact that the Commissioners worked collectively through this Council model caused some initial confusion (including by some staff) regarding the role of the Council of Parties. Some initially mistook the Council as similar to a governing board. However, the Council of Parties was not limited in its functions to that of a board. They were similarly charged with the responsibility to oversee and govern the process. However, as Commissioners, they were also responsible for the conduct of the Inquiry. This meant they were directly involved in all aspects of carrying out the work of the Inquiry. This was particularly important because of the restorative approach of this Inquiry. In keeping with this approach, the role of the Commissioners was to ensure the process

to build relationships in support of the learning and understanding needed for planning and action. The Council of Parties, collectively, held the responsibilities of a Commissioner to *conduct* the Inquiry not merely to oversee it. The restorative approach thus required a level of involvement in determining how — the ways in which — the Inquiry would work. It required the Council of Parties to facilitate the process rather than preside over it. They could not fulfil this role operating as a board that left implementation and operations to the discretion of staff, as is sometimes the case in organizations. Instead, staff were to support the direct work of the Council of Parties in leading and facilitating the Inquiry.



As mentioned, the nature and amount of time and support required for the Council of Parties to fulfil this role was significantly more than anticipated in the design and initial implementation phase. One of the important lessons for future inquiries that seek to take a restorative approach is the need to appreciation the different nature of the work for Commissioners in a restorative model and the time and support it requires. As the work of the Inquiry developed, the Council of Parties made adjustments in terms of the initial expectations of time and volume of work. It was also necessary to make substantial changes to the expectations, organization, and makeup of the facilitation and coordination team.

As indicated earlier, the Commissioners were selected for their connections to the parties most central to the work of the Inquiry. Further, the individuals were identified and selected for their willingness and ability to represent and support the engagement of these parties within the work of the Inquiry. Membership on the Council of Parties included former residents, those with connections to the former Board of the Nova Scotia Home for Colored Children, the African Nova Scotian community, and the Government. Commissioners were also selected for their knowledge and experience with the legal system, the African Nova Scotian community, and with knowledge of a restorative approach. There were a few members of the Council who did not complete their full term of appointment. They were replaced by other Commissioners relatively early in the process (for a full list of Commissioners see Appendix A).

The following Commissioners served to the completion of the mandate and have authored this Report (bios are available in Appendix A):

Michael Dull	Legal Expert/Former Resident Counsel
Deborah Emmerson	African Nova Scotian Community Member
Jean Flynn	Nova Scotia Government
George Gray	Member former Board NSHCC/AUBA
Wayn Hamilton	Nova Scotia Government
***Joan Jones**	African Nova Scotian Community Member
Jennifer Llewellyn	Restorative Process/Facilitation Expert
Gerald Morrison	Former Resident NSHCC/VOICES
Dean Smith	African Nova Scotian Community/Legal Expert
Tony Smith	Former Resident NSHCC/VOICES
Pamela Williams	Chief Judge Nova Scotia Provincial Court

*At the end of the final phase of planning and action, following the reporting and sharing sessions with community members across the province, the Council of Parties suffered a significant loss with the death of Commissioner Joan Jones. Joan was a leader of the civil rights movement in Nova Scotia (and Canada). Her knowledge, insight, and experience with the child welfare system and the African Nova Scotian community was invaluable to the work of the Inquiry. Her death was an incredible loss for the Inquiry and the province. Her fierce and frank assessment, fuelled by compassion and an appreciation of the complexity of relationships in community and Government, was instructive and inspiring. Her influence continued to guide the work of the Council through to the end of the mandate.

Restorative Principles in Practice

The decision to lead the Inquiry through a Council of Parties reflects restorative principles. The Council was selected to be inclusive of the parties central to the mandate of the Inquiry. They were selected not merely to represent the views of various parties but also to bring these perspectives to bear in supporting the active participation of various parties in the collaborative work of the Inquiry. Commissioners were selected for their relevant knowledge and experience, as well as their capacity to facilitate building relationships between and among various parties. As Commissioners, members of the Council of Parties were responsible to support the restorative approach of the mandate. This means they were not "representatives" in the sense of advancing particular parties' interests, but rather that they would use their knowledge, understanding, and connections to support collaboration in the collective work of the Inquiry.

The Council of Parties not only reflected restorative principles in its structure, but also in its approach to the form and substance of its meetings and deliberations.

The Council of Parties took a restorative approach to its work, including meetings and decision-making. The Council opted for a shared model of leadership. As required by the Terms of Reference, the Council selected two Commissioners from its members to serve as Co-Chairs. As provided in the Terms of Reference, one Co-Chair was a former resident (Tony Smith), and the other selected by the Council from among its members (Pamela Williams). The Co-Chairs exercised their role as first among equals on the Council. Council members took collective responsibility for the work of the Inquiry. They shared leadership throughout the mandate for the work, including facilitation of processes, planning and preparation for sessions and circles, analysis of information, research, report writing, etc.

The Council used restorative processes in the conduct of its meetings to ensure inclusive and participatory discussion and decision-making that promoted the development of relationships and understanding among members and the respective communities/parties they represent.

The Council's meeting and decision-making processes were also guided by restorative principles. The Council used restorative processes in the conduct of its meetings to ensure inclusive and participatory discussion and decision-making that promoted the development of relationships and understanding among members and the respective communities/parties they represent. The Co-Chairs facilitated meetings and the work of the Council restoratively, ensuring all voices and perspectives were heard and considered. All Council members committed to ensuring the guiding principles for the Inquiry were reflected in all its work and throughout the process.

The Council aimed for common agreement regarding its decisions through a consensus-based decision-making model. Before a decision was made, the co-chairs canvassed Council Members on their views and concerns. Agreement with the proposed decision was tested by inquiring

whether any members could not accept or act in accordance with the decision. If a member(s) indicated a concern, they were asked to elaborate and the council discussed the matter and considered whether the proposed decision should be altered. Agreement was tested again following the same process. If, in the view of the co-chairs, there was still a possibility to seek agreement on the matter, they would repeat the process and turn the issue back to the group to see if it was possible to address the concerns and gain consensus. If, however, in the view of the co-chairs such agreement was not likely after the second test for consensus having tried to address the concerns raised, the co-chairs could, at their discretion, put the matter to a vote in accordance with the agreed voting provisions.

When required, decisions were made according to a majority vote of members present for all matters except the exercise of the subpoena powers, which would require an enhanced majority of 75 per cent of members present, provided the meeting had the requisite number of members for decision-making. Decisions regarding use of the subpoena power were not taken without the Council consulting the view of the judicial member of the Council.

In practice, the Council dedicated significant time and effort to building relationships and understanding among members. The deliberative process required commitment from all parties to hearing and giving serious consideration to different perspectives and concerns. This process deepened the Council's capacity to support similar efforts among parties within Inquiry processes. As a result of this approach, the Council operated almost exclusively by consensus.

Restorative principles also guided the substance of the Council's decision-making. The Council gave serious consideration to the relational impact of its decisions.

Restorative principles also guided the substance of the Council's decision-making. The Council gave serious consideration to the relational impact of its decisions. This was true, as discussed below, for example, in the Council's determination of the central issues that would focus its work. It was also evident in the Council's use of its subpoena powers.

The Restorative Inquiry had all of the power and authority of a traditional inquiry under the *Public Inquiries Act*, including the power to compel witnesses and evidence. The restorative approach of the Inquiry generally relied on the commitment and relationship among the parties to secure the information and participation required to fulfil its mandate. The design team clearly recognized the importance of retaining the power to issue subpoenas if and when needed in support of the process. However, they also recognized the importance of exercising this authority consistent with restorative principles. This meant that the Inquiry did not use this authority as a primary mechanism to facilitate participation. Instead, all of the relationships and connections within the Council of Parties were utilized to seek participation or information needed. Subpoenas were contemplated only in situations where it was not otherwise possible to gain information or participation from individuals, or in situations and circumstances in which individuals would otherwise have been unable to participate or share information without external authority.

The power of subpoena was extremely helpful in clarifying the authority of parties to share information with the Inquiry. The clear fact of this authority resulted in it not having to be exercised often. In fact, the Inquiry issued only two subpoenas during its mandate. Both subpoenas pertained to the same set of records. The Akoma Holdings and Akoma Family Centre that took over the operational licence and assets of the Home retained the Home's historical records. Some of these records at the Akoma site were subject to oversight and authority of the Department of Community Services. To clarify the authority of the Inquiry to these records, and to facilitate safe and secure access during the mandate of the Inquiry, a subpoena was issued for the records to both Akoma/NSHCC and the Department of Community Services.

In this case, the subpoena worked the way in which the design team intended. The subpoenas were used to facilitate collaboration of parties in support of the work of the Inquiry. The parties involved cooperated fully — indeed, they were helpful in facilitating the organization and transfer of the documents to the Inquiry. The Inquiry provided support and preparation prior to issuing the subpoena by contacting parties to explain the nature of the process and the reason for the subpoena.

The Council of Parties was very conscious that their mandate would come to an end and that the work of making a difference would continue long after. Given this reality, the Council approached its work in ways that sought to build commitment and capacity among participants to take up the mandate for change during and after the Inquiry.

The Council of Parties approached its work with parties in this facilitative and collaborative way generally. This approach required significant work in preparation for processes as discussed below. The involvement of the Council of Parties was more than presiding over processes. The Council played a significant role in planning and preparing processes and parties. During the Inquiry processes themselves, Council members took up facilitative and listening/learning roles to support participants to come together to build relationships, to learn and come to understanding one another and the issues in order to plan and act together. The Council of Parties was very conscious that their mandate would come to an end and that the work of making a difference would continue long after. Given this reality, the Council approached its work in ways that sought to build commitment and capacity among participants to take up the mandate for change during and after the Inquiry. This required participants to come into the process and talk to each other, not just to the Commissioners.

The Council of Parties was responsible, then, to make decisions about how best to facilitate and advance this work and to build a foundation for the ongoing work of planning and action. This required the Council of Parties to listen, learn, and deliberate in order to come to understandings of what happened, and what matters most about what happened. It was then their responsibility to share that knowledge and understanding to support parties within the process to discern what needs to happen next in terms of planning and taking action together.

Members of the Council of Parties facilitated and participated in all of the processes of the Inquiry in order to share knowledge gained from one part of the process to others — connecting

the dots to ensure the integration of knowledge and issues in support of a different way forward.

The support and engagement of parties and participants within the Inquiry was remarkable. Parties welcomed the opportunity created through the Inquiry process to come together in a different way. The facilitated gatherings of the Inquiry enabled participants to step outside the siloed and fragmented ways in which they often understood issues or worked. It established a collaborative and integrative process in which parties could learn, understand, and act differently together.

This level of engagement with the process required significant work for the members of the Council of Parties well beyond the more modest expectations at the outset of the process. The Council of Parties also came to appreciate the intensity of the work required to build trusting relationships and parties' understanding of this different way of working. This factored into the increased volume, breadth, and depth of the work required of the Council of Parties. It also became clear this was not work that could be assigned to staff. The facilitative role of the Council of Parties required their active participation and leadership of the work because *how* the Inquiry worked was central to its mandate and their responsibility to model a different way.

It is significant, in this regard, that the Commissioners on the Council of Parties were not appointed to these positions full-time. The Council of Parties was designed to draw upon parties to come together in support of this work in a largely volunteer way. The idea was that their impact would be greater if they remained actively engaged in their respective roles. There was a recognition, as noted above, that VOICES required resources to play their role as contemplated in the terms of reference. It was also clear there would need to be a Government representative with a mandate to support Government in fulfilling its commitment to participate fully in the Inquiry. Beyond these roles, however, the members of the Council of Parties balanced their role as Commissioners with their other (often) full-time roles and responsibilities. Those not carrying out this responsibility as part of their paid employment were offered a small stipend to off-set expenses and in recognition of their time.

One of the important learnings from the process has been the significant amount of time it takes to work restoratively — in collaborative ways — to facilitate this sort of process. In the end, the commitment required of members of the Council of Parties was substantially greater than anticipated. Over the past almost four years, Council members:

- had evening weekly meetings for four to five hours
- had extended meetings for one to two days approximately every two months (more regularly towards the end of the mandate)
- had additional meetings to plan sessions
- facilitated and attended all of the processes
- sat on the Reflection and Action Task Group (some members as discussed below)

In addition, Council of Parties members shared responsibility to conduct and review research, review all information from various processes, write public reports and presentations, oversee other knowledge-sharing activities, etc.

Members of the Council recognized that this was the first attempt to take a restorative approach to a public inquiry. As such, it was inevitable that there would be unanticipated issues and changes in terms of time and the structure and approach to the work. In many ways, Council learned and addressed such issues as the process developed. Council has gained significant insights regarding the time and resources required to support working in this different way. Some of these lessons are reflected in our consideration of the way ahead in Chapter 7. In general, it is important to ensure the right sort of resources and support (including the time needed) to be able to work in a restorative way.

It would, in hindsight, perhaps have been helpful to have had at least some members of the Council of Parties able to work full- or part-time on the Inquiry. However, such a change should be considered carefully so as to approach it in a way that does not undermine the collective sense of responsibility and action the whole Council felt for the work of the Inquiry. This was one of the significant advantages resulting from the structure of the Council, whereby there were not one or two full-time Commissioners running the process while the rest were part-time or volunteer. There was a sincere sense of shared commitment and responsibility among the Council of Parties.

C. Advisory Group

The Council of Parties was supported by an advisory group drawn from members of the design team and the Interim Council of Parties (see Appendix A). The advisory group provided continuity from vision to implementation of the Inquiry. This was particularly important during the initial stages as the Inquiry constituted itself and considered how to fulfil its mandate. The advisory group played informal, but important, support roles throughout the process. In keeping with the Ujima commitment to collective work and responsibility, they did not end their care and concern for the success of the Inquiry with the release of the mandate and terms of reference or the Inquiry launch. They were a resource for questions, a sounding board as the process developed, and lent support and expertise at various points in the journey of the Inquiry. Advisory Group members were:

- Stephanie MacInnis-Langley (Executive Director, Nova Scotia Advisory Council on the Status of Women)
- David Darrow (retired Deputy Minister to the Premier and Clerk of Executive Council, Province of Nova Scotia)
- Tracy Dorrington-Skinner (former resident of the Home and past Co-Chair of VOICES)
- Tracey Thomas (Office of African Nova Scotian Affairs, Department of Community Culture and Heritage, Province of Nova Scotia)

D. Reflection & Action Task Group

To support the work of the Inquiry, a Reflection and Action Task Group was formed according to the Terms of Reference. The Reflection and Action Task Group included senior leadership from across relevant Government departments, as well as designated members of the Council of Parties. Deputy ministers from the following departments participated on the Reflection and Action Task Group:

- Community Services
- Communities, Culture and Heritage (incl. African Nova Scotian Affairs)
- Education and Early Childhood Development
- Health and Wellness
- Justice
- Labour and Advanced Education

Additionally, senior leadership from the Nova Scotia Health Authority and the IWK Health Centre also participated throughout the course of the mandate of the Inquiry.

The Reflection and Action Task Group was established as a means of supporting Government's commitment and participation in the Inquiry. The mandate of the Inquiry cut across many different Government departments. The restorative approach of the Inquiry required collaboration and integration across Government in order for it to be able to come into the process in a coherent way that allowed work with other parties to build relationships, learn and understand, and plan and act collectively.

The role and responsibilities of the Reflection and Action Task Group were:

- Work in collaboration with Council of Parties to facilitate and ensure active and full involvement and engagement of public and government institutions with the Inquiry.
- Consider findings and recommendations throughout the Inquiry process and make plans for appropriate action and implementation in conjunction with the planning and action stages of the Inquiry.
- Submit reports annually for three years from the start of the Inquiry to the Nova Scotia Legislature on Government participation and action to report progress on advancing objectives/goals and impact of the Inquiry.

The Reflection and Action Task Group also took a restorative approach to its work. It mirrored the phases of the work of the Inquiry, giving careful attention to the work of relationship building (identifying and appreciating the connections to the central issues of the Inquiry), learning and understanding, and undertaking and supporting planning and action in real time throughout

the Inquiry. The Task Group met regularly during the three phases of the Inquiry's work. In addition, members from the Reflection and Action Task Group participated in Inquiry circles and attended additional meetings individually or in groups with members of the Council of Parties to plan and support aspects of the work as needed. It was incredibly helpful to the work of the Inquiry to have the opportunity for deputy ministers to consider the issues across their departments and approach them as a shared Government responsibility. The Task Group was another example of modelling the integrative and holistic approach key to the different way forward the Inquiry sought (see Chapter 6 for full discussion of this approach).

The report schedule for the Task Group was intended to cover the original time period of the Inquiry and ensure the final report would come one year after the Inquiry. In keeping with the intention of the mandate, the Reflection and Action Task Group submitted two Reports to the Legislature over the course of the Restorative Inquiry mandate. The first report was submitted in October 2017, and the second in April 2019. A third, and final report, will be submitted approximately a year after this final Report of the Inquiry is released.

The Task Group's final report will be an opportunity for Government to share its continued work and progress on the actions, plans, commitments, and recommendations outlined in Chapter 7 and, more broadly, on the impact of the Inquiry. The Reports to the Legislature have been an important mechanism to ensure public knowledge and engagement with the work of the Inquiry. The reports were tabled in the House and provided an opportunity for elected representatives from the Government and other parties to reflect and comment on the work of the Inquiry as it proceeded.

E. Parties & Partners

The Reflection and Action Task Group was a mechanism established in the Terms of Reference to contend with the difficulty of engaging the relevant and varied parts of Government in coherent, consistent, and collective ways in the work of the Inquiry. While particular attention was paid to supporting the engagement of Government in this way, Government was not the only, or even the most important, partner/party in the work of the Inquiry. Indeed, the Inquiry used the language of "partners" throughout the process to mark the invitation for parties to collaborate closely in the work of the Inquiry. The language of partnership was not intended to signal a relationship with the Council of Parties. As Commissioners of a Public Inquiry, the Council of Parties was not a "partner" with the parties. They maintained their independence as required by their role and responsibilities to facilitate and oversee the Inquiry. The reference to partners was to acknowledge parties who came into the process with a commitment to join in the Journey to Light.

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Parties were thus invited to partner with one another and in the work of the Inquiry. This notion of partnership was reflected in the statement of commitment signed by many of the founding parties at the beginning of the Inquiry.

Nova Scotia Home for Colored Children Restorative Inquiry

Statement of Commitment

The Nova Scotia Home for Colored Children Restorative Inquiry will reveal and address part of the harmful legacy of racism in Nova Scotia by examining the Home and the experiences of former residents, as well as the impact on their families and communities.

As we enter the Restorative Inquiry as supportive partners joining in the journey to light, we commit to building strong, healthy, respectful relationships that will help us plan and act together for a more just and equitable future.

We commit to participate in the Nova Scotia Home for Colored Children Restorative Inquiry as full partners.

We acknowledge our collective responsibility for the process and its outcomes.

We recognize that the harms suffered by former residents of the Nova Scotia Home for Colored Children have affected them, their families and their communities for generations.

We commit to seek a common understanding of the abuses that happened at the Nova Scotia Home for Colored Children, including the context and conditions that allowed them to happen, and why this matters for all of us.

We welcome this opportunity to examine how broader systemic issues have affected and continue to affect Nova Scotian communities—especially African Nova Scotian communities.

We commit to be open and transparent as we examine our past in order to seek a better future together.

We commit to supporting this work with our time, resources and energy to the best of our abilities.

We commit our best efforts to do no further harm and leave no one behind.

We acknowledge that we must find better ways of working together.

Other parties partnered in the work of the Inquiry as its work developed throughout the mandate. Those who have played active and committed roles within the process and in the work that flowed from the Inquiry are often referred to as partners. It is, thus, not a formal designation.

Others have also participated in or supported the work of the Inquiry as individuals or in more limited ways that did not reflect this partnership-sort of connection but was nevertheless significant.

It is also important to note that the involvement of Government did not only come through members of the civil service. Elected representatives from all parties were engaged with the work of the Inquiry. The Premier and Ministers with portfolios directly related to the work of the Inquiry were more involved in contributing to the learning and understanding and planning and action phases of the Inquiry. The Premier took responsibility to report on Government's participation in the Inquiry to the Legislature. The Premier and Ministers received information and updates through their deputies on the Reflection and Action Task Group. In addition, Ministers participated in two circle processes with members of the Council of Parties. The Council of Parties also made efforts throughout the mandate to update and engage other elected representatives through presentations and meetings with party caucuses and leaders.

The Inquiry sought to ensure an open and safe environment for all participants. To this end, the Council of Parties took notes at the circles, sessions, and meetings, but did not share or distribute these notes beyond the Inquiry. The Council of Parties also has not published the names of all individuals who participated. This reflects the fact that, while some individuals attended in their official or professional capacity, others came in their personal capacity. To offer some sense of the breadth of involvement in the Inquiry, the following is a list of Government, public institutions, and community-based organizations and agencies represented during the Inquiry.

Provincial Government Departments						
Justice	**Health and Wellness**	**Community Services**	**Communities, Culture and Heritage**	**Education and Early Childhood Development**	**Labour and Advanced Education**	**Internal Services**
Public Safety Correctional Services Court Services Policy, Research and Planning Restorative Initiatives Unit Legal Services	System Strategy and Performance – Mental Health, Primary & Acute Care Client Service and Contract Administration Office of the Chief Medical Officer of Health	Children, Youth & Families Services Employment Support & Income Assistance (ESIA) Disability Support Program Policy, Research & Statistics Housing Service Delivery	African Nova Scotian Affairs Communities & Heritage Policy & Corporate Services Sports & Recreation Communities NS Nova Scotia Archives	Early Years Inclusive Education, Student Services & Equity Programs & Services Policy & System Support	Corporate Policy and Services Branch Higher Education Branch Skills and Learning Branch Strategic Youth Initiatives	Information Access and Privacy

Public Institutions, Agencies & Bodies

- Nova Scotia Human Rights Commission
- RCMP & Halifax Regional Police
- Nova Scotia Office of the Ombudsman
- Halifax Public Libraries
- Nova Scotia Advisory Council on the Status of Women
- Nova Scotia Public Prosecution Service
- Nova Scotia Barristers' Society
- Mi'kmaw Family and Children's Services of Nova Scotia
- Nova Scotia Legal Aid
- Nova Scotia College of Social Workers

Community-Based Organizations & Associations

- Boys & Girls Clubs of Nova Scotia
- AUBA
- In My Own Voice (iMOVe)
- Association of Black Social Workers
- Phoenix
- 902 ManUp
- YMCA of Greater Halifax/Dartmouth
- Nova Scotia Restorative Justice Agencies – Community Justice Society, South Shore, Valley, Tri-County, Cumberland, & Island Community Justice)
- Homebridge Youth Society
- John Howard Society of Nova Scotia
- Black Educators Association
- East Preston Day Care & Family Resource Centre
- Delmore Buddy Daye Learning Institute
- Akoma Family Centre/Akoma Holdings
- Nova Scotia Brotherhood
- Federation of Foster Families of Nova Scotia
- Women's Centre Connect
- Mulgrave Park Caring and Learning Society
- Cape Breton/ Victoria Child Advocacy Society
- Adsum For Women & Children
- Veith House

These entities have been involved in various ways and at different stages of the Inquiry process. For example, some contributed to the learning and understanding phase on a particular issue(s), others were engaged at the planning and action phase of the work in support of the way forward, others have been engaged in order to connect their organization with the work of the Inquiry to ensure its lessons are applied with their mandate and jurisdiction. Others, still, have been closely involved throughout the entire mandate of the Inquiry.

F. Supporting the Inquiry's Work

I. Facilitation & Coordination Team

As indicated earlier in this Chapter, the nature of the work and the resources needed to take a restorative approach to this public inquiry became clearer as the process developed. The nature of the work also shifted during the different phases of the Inquiry. As described in detail in the following sections, the initial phase of the Inquiry was primarily focused on identifying parties' connections to the mandate and building relationships for the work ahead. The next phase of work focused intensely on learning and understanding in order to support the final phase of planning and action. Throughout its mandate, the Inquiry was also responsible for sharing and reporting on the process and its progress. The resources required to support the different activities and the other work of the Inquiry varied depending on the phase of work. These resources included time, expertise and support from Inquiry staff and other professionals.

The Council of Parties did not function as a board commonly does in non-profit or community organizations primarily concerned with governance, direction, and oversight and leaving the operational decisions to a staff team. The importance of the primary role of the Council of Parties in directing and facilitating the work of the Inquiry meant that staff support had to be deployed to work closely and directly with Council members. This required a responsive approach to staffing and an appreciation by staff members, and others supporting the Inquiry, of the unique role of the Council of Parties as Commissioners of a Public Inquiry. It was challenging, during the initial stages, to develop a staffing model adapted to the dynamic and limited term nature of the Inquiry. Sorting out the relationships, roles and responsibilities of staff support required attention from the Council of Parties throughout the mandate as they sought to model this different way of working. Significant effort was also required to equip staff with the knowledge, skills and understanding required to work restoratively, and to do so in the context of a public inquiry. This was expected given this was the first time a restorative approach had been taken to a public inquiry. It was, nevertheless, an added challenge to ensure the resource capacity needed to support parties coming into the process.

The coordination and facilitation team that supported the initial phase of the Inquiry were largely African Nova Scotian. They brought their significant understanding and connections within the community to their work with the Inquiry. This was a significant asset during the relationship-

building phase of work. For some, the connection to the African Nova Scotian community made dealing with the history and experience of former residents at the Home particularly difficult and challenging. We discuss the community's response to the revelations about the experiences of neglect and abuse at the Home in depth in Chapters 4 and 5. We also consider the challenge of systemic racism, and its internalization for the work of change that was a focus of the Inquiry, in Chapter 6. The Inquiry itself was not immune to the legacy of the Home and the impacts of systemic racism in its work.

The structure of the facilitation and coordination team shifted as the work proceeded through the phases. As the Inquiry proceeded and partners became engaged with the work, the Inquiry was able to access operational and other supports from various partners (as detailed in the next section). The support from parties was significant evidence of collaboration. It was also helpful in building a collective and shared sense of responsibility among the parties for the work of the Inquiry. The Council of Parties gained significant insight during the process about the nature of staff and administrative support required to work in this way in future.

A Facilitation and Coordination Team was established at the outset of the first phase of the Inquiry with responsibility to help the Council of Parties to:

- fulfill the mandate of the RI in day to day operations in accordance with the directions set by the Council of Parties.
- guide, plan, direct and execute meetings and/or circles processes.
- ensure that the right parties, stakeholders and individuals are included within the processes.
- collect and share knowledge between participants and with other RI bodies and provide education to participants and the public.
- prepare and support participants and ensure health supports are considered within all planning and process activities.

The initial team was organized by distinct roles and responsibilities, including a coordinating director (with responsibility to supervise staff and ensure the staff team works well and fulfills responsibilities and liaises with the Council of Parties); facilitators, briefers/navigators, and knowledge gatherers; researcher; health support; communications; and community liaison. The intention had been for certain staff to take up leadership on the staff team for these areas of work. However, as the work of the Inquiry developed, it became apparent that the staff model envisioned by the design team made it challenging for the staff to support the work in the holistic and integrated ways required. The Inquiry adjusted the staffing model to enable closer operational connection with the Council of Parties and to take a more integrated and flexible approach to staff roles. Most staff shifted from a particular focus area to work as process facilitators taking direction from and supporting the work of the Council of Parties.

II. Other Process Supports

Reflecting the ongoing commitment to the principle of collective work and responsibility, The Inquiry accessed support from experts and resource people beyond its facilitation and coordination team. As mentioned in the last section, Inquiry partners provided invaluable support to the Inquiry. This included, for example, financial administration and information technology support from Government corporate services; human resources advice and support from the Public Service Commission; records management advice and support from the Nova Scotia Archives and the Department of Community Services; data collection project support from the Department of Community Services and Research, Policy and Planning at the Department of Justice; facilitation and coordination support during the planning and action phase from the Restorative Initiatives Unit at the Department of Justice; health supports by Family Service of Eastern Nova Scotia; event planning collaboration with 902 ManUp, iMOVe, and the Nova Scotia Barristers' Society; advice and design services from Communications Nova Scotia; research support from the Nova Scotia Archives; and administrative support, including office and meeting space, from the Nova Scotia Advisory Council on the Status of Women. Notably, all of the support from Government partners was provided at the request of the Inquiry in the spirit of collaboration and with careful attention to maintain the independence of the Inquiry. The Inquiry also engaged individuals for professional support including, for example, copyediting, research, design, filmmaking, creative services/supports, and health supports (see Appendix A for acknowledgement of individual contributions).

The Inquiry also received significant support from national and international experts in the fields of child protection (the history and practice), restorative approach, human services governance, and systemic racism. These individuals provided significant expertise in support of the learning and understanding and the planning and action phases of work, as described in the following sections.

It was not the Inquiry's role to support healing for former residents. However, the experience of the former residents was a central focus of the Inquiry and it was committed to ensure former residents could participate without experiencing further harm. The Inquiry was assisted by VOICES to support participation by former residents who wanted to take part in the Inquiry. VOICES provided advice and support to ensure process design and facilitation would support and honour commitments to former residents. The Inquiry was committed to listening and incorporating first voice/lived experience. To this end, the Inquiry offered several different ways for former residents to connect with and participate, including information sessions, former residents' gatherings, and sharing circles. For example, the Inquiry collaborated with VOICES to host regular "Tea and Talk" sessions for former residents. These sessions provided opportunities for former residents to learn about the progress of the Inquiry, to provide their input, to connect with one another, and to receive information about health supports and strategies to help deal with stress and trauma. The Inquiry also supported two retreats led by VOICES for former residents during the mandate of the Inquiry.

Processes & Activities

As noted in the previous sections, the Inquiry worked in a principle-based and flexible way that was responsive to what we were learning about the issues, the parties, and their relationships throughout the process. In facilitating this work, the Council of Parties undertook a process of learning, reflection, design, and implementation that repeated during each phase and with respect to the various issues before the Inquiry.

I. How the process worked

The Inquiry undertook many different activities and processes in fulfilling its mandate. While these activities and processes took different forms — as appropriate to the phase of work, nature of the issues, or needs of the parties involved — they all reflected the same underlying principles of a restorative approach.

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Much of the work took place in restorative circles where participants were brought together by a facilitator (generally a member of the Council of Parties) around a series of focused questions for discussion and reflection to support individual and collective consideration of responsibilities and next steps. Not all of the Restorative Inquiry's work took place in circles, but all of its work was approached restoratively whether in briefings, meetings, deliberations, presentations, research, etc.

The Restorative Inquiry tailored its processes to bring together different groups at different times and for different reasons. The process was responsive to participants and the nature of the issues at stake. This process was principally committed to *doing no further harm*, especially to former residents who have experienced trauma. To that end, these gatherings were approached in a trauma-informed way and largely took place in closed settings to allow participants to share freely and safely. Former residents were welcomed and supported in these processes and could choose the extent of their participation. The sections below expand upon how the Council engaged with participants.

The Council of Parties gathered information through restorative circles and other processes and meetings. This differs from the traditional format of public inquiries that take testimony or submissions from individuals or on behalf of organizations. The Inquiry brought parties together to share important information in ways that could be heard and considered by each other. Indeed, processes were designed specifically to support learning and understanding among those most central to the work ahead. Developing this shared understanding established a firm foundation for the collective planning and action work that marked the final phase of

the Inquiry and will continue post-Inquiry. The Restorative Inquiry aimed to work in ways that support planning and action in real time and following the Inquiry. This required a shift from traditional inquiry models whereby commissioners collect and consider information and make recommendations to others based on their understanding of the issues. The Restorative Inquiry was committed to sharing information and engaging in a collective process of learning and understanding with parties to support their active participation in discerning the way forward. The Council of Parties took an active role in planning and facilitating these processes and in ensuring that information gained across processes was integrated and shared with parties.

While circles and other processes were central to the work of the Inquiry, it is important to recognize that planning and preparation were key to the success of such processes. The planning and preparation were not only important for the sake of enabling parties to come together. They also made essential contributions to relationship building, developing and deepening learning and understanding, and planning and action. While circle processes were extremely valuable and significant in the work of the Inquiry as opportunities to support parties' collaborative work, it would be a mistake to focus solely on these processes as the work of the Inquiry. Attention should be paid to the context in which and out of which the circles took place. In other words, the circles were a part of the restorative process of the Inquiry, but they should not be taken as the only element or expression of that approach.

Before parties were brought into circle processes, the Council of Parties undertook significant work. They paid close attention to finding the right people, identifying the issues that needed attention, sharing information along the way, designing the right process, preparing people to come to the process, and connecting the outcomes with the next steps in the Inquiry's work. The Council of Parties process work included:

- Identifying the reason and purpose for bringing parties together. The phases of the Inquiry work (as detailed in the next section) shaped the purpose of circles — whether aimed at identifying parties' connections to issues or to one another; sharing knowledge and developing understanding of matters, or developing plans and taking action together.
- Discerning the scope of the session — careful consideration was given to how issues were broken down to support focused and manageable discussion and progress.
- Exploring and identifying the groups or individuals that needed to be involved in a process depending upon its purpose and scope.
- Designing the process appropriate to the purpose and issue(s). This included careful consideration of who facilitated the session and how it would be facilitated, where it would be held, the format and other logistical issues.
- Preparing participants, including sharing background information about the Restorative Inquiry and the purpose and nature of the process. The Council also prepared background

information for participants specific to the focus of the process they were attending. This background was an opportunity to share information and understanding of issues emerging through the process. This enabled participants to come prepared to reflect on, question, correct, or add understanding to the body of knowledge being developed through the Inquiry.

- Following up from the process. Council always reflected on the experience of the process for participants to deepen understanding of the needs and relationships between and among parties in the process.
- Reviewing notes from each session to integrate the knowledge and understanding from one process with others to deepen overall learning and understanding. The Council considered how this learning and understanding should influence analysis of the issues and the next steps in the work, including further issues that emerged from sessions, information and knowledge to be shared with others, and implications for planning and action work.

In all this work, the Council of Parties worked collaboratively with partners to gather required information to support its plan and preparation of sessions. In the process, Council built stronger relationships, understanding, and commitment among partners to the work of the Inquiry.

II. Examples of Processes & Activities

The Council of Parties' carefully designed and planned sessions and circles did not employ a ready-made approach to process models. That said, the Council developed an approach to circle processes for certain purposes throughout the process. As described in the last section, each of these circles was planned and prepared according to the parties and issues at stake. Nevertheless, different sorts of circles were used during the Inquiry and, as discussed in the next section of this chapter, some were employed more during certain phases of the Inquiry.

- **Former Residents' Sharing Circles** — These circles brought together former residents to share their experiences to ground and inform the work of the Inquiry in exploring the history and experience of the Home. While there were sharing circles with former residents throughout the Inquiry process, there was a concerted effort to hold such circles at the outset. This timing ensured their experiences were foundational to the work. It was also important to connect with former residents who wanted to be engaged with the Inquiry early in its mandate. These circles focused on understanding former residents' experiences and the impacts from their time at the Home. In the initial phase of the Inquiry, several such circles were held focused on the following themes: family and community, caregivers, education, and justice. In preparation for the sharing circles, former residents were given sets of questions they might think about in advance. Former residents did not have to prepare anything for the circles. Circles were facilitated to enable residents to share what was most

Former Residents' Sharing Circles — Reflection Questions

FAMILY AND COMMUNITY

Who were the people you counted on most in your life?

Where are the places you have fondest memories?

What was difficult about those relationships?

If you could go back and give advice to the people around you, what would it be?

CAREGIVERS

Who was responsible for your care outside your family? (*This could include social workers, Home staff, foster parents, health-care workers, and others.*)

How did you feel about them then and now?

What were the best experiences you had with them?

What were the hardest experiences?

What do you wish had been different?

EDUCATION

What are your memories of school during your time at the Home?

Did you have someone at school you could turn to for support? If so, who was it?

What was the best part of your school experience? What was the worst?

Did you feel you could learn and succeed at school? Why or why not?

What would have helped?

JUSTICE

Do you have any memories of police visiting or being involved with the Home during your time there? Did you ever speak with police or other authorities about anything that happened to you? Why or why not?

Was anything helpful about your experiences? Was anything harmful?

If you have had any involvement with the justice system, did you have support through your experience? (*For example, a lawyer, Victims Services, or others.*)

How clearly did you understand what was happening?

What do you wish had been different? What would you change?

important for them. They were not required to speak to all or any of the themes if they did not wish. These sharing circles were not the only mechanism for the Inquiry to learn about the experiences of former residents. As discussed further in the following section, many former residents shared transcripts from their statements in the settlement processes in which they discussed their experiences at the Home and since. In addition, the Inquiry conducted research, including reviewing former resident case files and other documentation related to the experience and treatment of former residents. However, the first voice of former residents within the Inquiry process was very important and grounded much of the work of parties throughout the Inquiry.

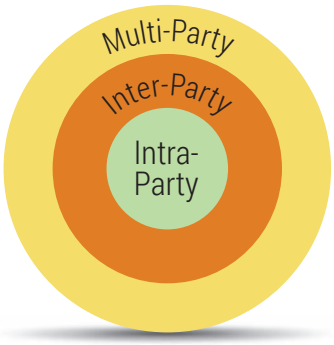
▸ **Partner Circles** — Partner circles were generally held during the initial phase of the Inquiry (although, as new partners were identified in relation to emerging issues, this type of process was used as needed). These circles were used to support reflection by individual partners/parties or among several partners about their connection to the Home and the central issues related that continue to be important.

These partner circles supported the Inquiry process in multiple ways: they broadened the notion of engagement of partners (parties) in the work of the Inquiry; deepened collective learning of Government participants; strengthened relationships necessary for anticipated action; and informed Council's understanding and identification of the central issues for further examination and action.

- **Relationship-Building Circles** — As the Inquiry developed a shared understanding among parties/partners about their connection and relationship to the history and experience of the Home, and to the central issues of the Inquiry, the need to consider and address some of the relationships between and among parties became clear. Bringing together parties to consider their relationship to the past and to each other in terms of the future was essential to support learning and understanding and to undertake the collective work of planning and action. Some of these processes brought together two parties, and others, multiple parties to understand and address the significance of their relationships to the way forward. To offer a few examples, processes brought together former residents and members from the African Nova Scotian community closely connected to the Home, members of the former Home Board and members of the African United Baptist Association (AUBA), members of the RCMP and former residents, AUBA members and members of the African Nova Scotian community.

- **Knowledge Sharing Circles** — Circles were also held for the purpose of sharing and reflecting on knowledge from the perspective of different parties or participants. These circles brought to light different perspectives on the history and experience of the Home in order to identify and understand connections, issues, and lessons from the Home. They also provided opportunities to share knowledge gained through the Inquiry among parties to advance their learning and understanding in preparation for further work. These circles also helped identify the issues and relationships that matter most in relation to the mandate of the Inquiry. They happened at all levels: intra-, inter-, and multi-party.

- **Issue Dialogues Circles** — This type of circle was focused on deepening understanding related to the central issues (described below in detail) identified by the Inquiry following the initial stage of the learning and understanding phase of work. These processes supported understanding and identification elements in the way forward to address these issues. They involved different parties, depending on the nature of the issue,



and happened at all different levels (intra-, inter-, and multi-party) during the second part of the learning and understanding phase. They were also an important mechanism to build relationships, understanding, and shared commitment for collective action among parties and participants key to the success of planning and action on these issues.

- **Planning & Action Processes** — Circles and other restoratively designed processes (including workshops and working groups, etc.) were used to support parties in coming together to consider the way forward to make a difference in light of what was learned about the central issues. The Council supported these efforts by identifying items for planning and action and facilitating parties to come together to determine how they might work together to make the difference needed. Where possible, parties engaged in planning and action within these processes, and will continue this work together following the end of the Inquiry. To this end, the Inquiry made efforts to work with parties that will continue to be responsible for the commitments, plans, and actions at stake in order to build capacity for further action. These processes were also important as a mechanism to invite parties to consider and determine commitments to one another. The Inquiry also convened processes to address issues identified as important through the process but for which parties had not yet come together to develop a plan for action. The Inquiry shared recommended directions and actions on these issues based on the work within the process (as outlined in Chapter 7). Parties provided input and ideas regarding these recommendations and began to consider how they might prepare to work with others to plan for action.

Stages & Phases of the Inquiry

As discussed in the previous sections, the Inquiry has engaged in different stages of work throughout the process. The three stages of activity were:

- Gathering Knowledge
- Analyzing (Making Sense Of) Knowledge
- Outcome – Acting on Knowledge

These stages have not been completely distinct or linear. One stage was not completed before beginning another and there was no bright line by which the activities were separated. Sometimes gathering a piece of knowledge revealed what needed to happen immediately, and that action was undertaken. This was the case, for example, when knowledge made a difference to the way in which people understood an issue and immediately changed their approach to decision-making or practice. These stages of work were also a part of each of the phases of the Inquiry's work. Gathering knowledge and analyzing and acting upon it marked the approach to the work throughout the Inquiry.

The Inquiry process also involved three elements of work related to its overall objectives:

i) Relationship Building

ii) Learning and Understanding

iii) Planning and Action

The elements were core to the work throughout the Inquiry. However, the Inquiry did direct its focus to each of these elements at different phases of the Inquiry. A focus on relationship building was foundational and emphasized during the first phase of the Inquiry process; learning and understanding was emphasized during the second phase; and planning and action were more centrally pursued at the final phase of the Inquiry. In addition to these focused phases of activity, there was an initial period of work to set up the Inquiry and a final period of work focused on sharing and reporting on the process and its outcomes.

The three phases of activity were not isolated or distinct from one another. They were not linear but, rather, layered and cyclical. Each phase built on and continued with the work from the one before. For example, the focus on relationship building in that first phase of work created a foundation for the learning and understanding work during the second phase. Through learning and understanding, the work of relationship building was continued and deepened. The final phase of work focused on planning and action, and through these efforts, learning and understanding and relationship building continued. The phases were important, however,

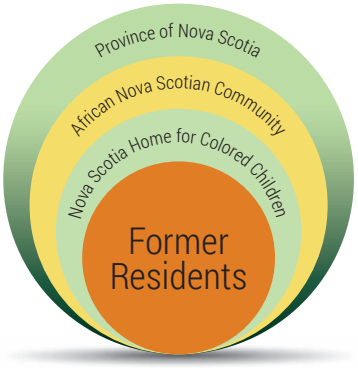
because they directed efforts and attention of parties and the Inquiry to ensure progress toward the goal of making a difference. The phases were the building blocks of collective responsibility and action.

A. Relationship Building Phase

As identified in the Mandate and Terms of Reference, one of the objectives in the Restorative Inquiry was to contribute to building just and respectful relationships. The Restorative Inquiry operated from the conviction that working collaboratively to identify issues, learn, and seek solutions together is an effective and sustainable path toward change that will truly make a difference.

It is important to be clear that the relationship building at which the Inquiry was aimed was not of an individual or interpersonal kind. It was concerned with relationships at the social, structural, and systemic levels.

It is important to be clear that the relationship building at which the Inquiry was aimed was not of an individual or interpersonal kind. It was concerned with relationships at the social, structural, and systemic levels. Of course, building just relationships at social, structural, and systemic levels requires attention and action from individuals. But the focus and efforts on building and changing relationships, and ways of relating through the Inquiry process, was directed at making a difference at a systemic level.



The work of the Restorative Inquiry was grounded in engagement and empowerment of those most connected to the mandate of the Inquiry — including those affected and responsible — so that they might contribute and collaborate to a different way forward. This was reflected in the design of the process to include former residents, community members, Government partners, and others together at the decision-making level on the Council of Parties. Starting with the former residents at the centre, the Inquiry recognized the network of affected and implicated relationships is complex. This includes for example, how former residents relate to the Home and to the African Nova Scotian community, the role of the NSHCC in the community, and how the community relates to, and is served by, broader public institutions including the provincial Government and other agencies.

As outlined in the Council's first public report (February 2017), the initial phase of the Inquiry's work concentrated on building relationships between and among former Home residents, community partners, and Government and public agencies. The relationship building phase was also focused on supporting parties and participants to explore and understand their relationships to the history

and experience of the Nova Scotia Home for Colored Children. Parties explored their connections and roles with respect to the Home and the issues it raises. They were also supported to consider their relationships to others in connection to this history and the issues concerned.

During the relationship building phase, the Inquiry facilitated 17 different circle process in addition to the community- and Government-engagement sessions held across the province. This phase included the following processes:

- *Former resident sharing circles* (which, as described above, also served as a foundation for learning and understanding).
- *Community engagement sessions* — the Inquiry held 10 information sessions around the province, from Yarmouth to Cape Breton. These sessions made connections with community organizations and considered the connection of the mandate of the Inquiry to broader issues and concerns in the African Nova Scotian community. These initial sessions generally involved those within community organizations and public agencies that provide services to African Nova Scotian communities. Attendees included, for example, regional educators and tutors with the Black Educators Association; principals and school board staff; members of community development associations and other community organizations; church clergy and lay leaders; and others who work and/or volunteer in their African Nova Scotian communities.
- *Government engagement sessions* — general introductory sessions about the mandate, approach, and work of the Inquiry were held for civil servants across Government. Two open sessions were held at the Halifax Public Library. In addition, several meetings were held with executive and management teams in various Government departments prior to the partner circles.
- *Partner circles* — These included circles with individual Government departments and groups of departments; police agencies; former Board members from the Home (including some on the current Akoma Board); the AUBA; and members of the African Nova Scotian community closely connected to the Home. These circles ranged in size up to approximately 25 participants.
- *Lunch & Learns* — Fourteen presentations and dialogue sessions were held at the Inquiry offices open to staff, VOICES, other former residents, and the Council of Parties. The sessions invited presentations on a range of subjects and drew upon knowledge and expertise from the African Nova Scotian community and human and health services related to the work of the Inquiry (contributors listed in Appendix A).

In addition to these processes during this phase and the learning and understanding phase, the Inquiry engaged with African Nova Scotian young people and young people with experience of the care system. These engagements included two youth conferences organized by the Inquiry; school presentations of the play Auntie B, which was written and performed by a former resident; a young writers' workshop with George Elliott Clarke; and circles with African Nova Scotian youth and youth with experience of the care system.

B. Learning & Understanding Phase

I. Learning about the history, experience and impacts of the NSHCC

The Inquiry focused on examining and understanding the causes, contexts, and circumstances of what happened at the Home to develop a deeper common understanding of why it happened and how it matters for the future. To achieve this, the Inquiry divided the learning and understanding phase into two parts. The first part was dedicated to examining the history and experience of the Home in order to identify what matters most, the central issues, and the lessons that need to be considered further for their implications today and into the future.

Knowledge about the Home began to emerge through many of the circles and processes held during the relationship-building phase. The learning and understanding phase brought parties back together and drew in new participants identified during earlier processes. Circles during this part of the process invited participants to reflect on what was known about the history and experience of the Home. They identified their understanding of what mattered most about this history and experience. They also identified what they felt needed to be talked about more and understood more deeply to make a difference for the future.

The former resident sharing circles continued to be essential during this phase. They helped Council and parties understand the most important and central issues related to their experience in the Home. In these circles, former residents were invited to reflect and share what matters most to them about their experiences related to the Home, including within the institution, with their families and communities, and with the broader systems that were meant to care for them. As noted above, the "system of care" as considered within the Inquiry included child welfare, education, health and justice (including policing), etc. This shift to a more holistic understanding of the system of care is discussed at length in Chapter 6.

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Partner circles with senior leaders in the departments of Community Services, Health and Wellness, and Justice, as well as with Education and Early Childhood Development and Labour and Advanced Education, were also convened during this phase. Participants were able to build on their understandings of where and how the work of their departments connected with the Home and former residents, to consider what current issues require deeper examination. Participants were asked to share what work is already underway in their respective departments that touches on these issues, and where they see opportunities for meaningful change. As an essential part of this work, participants reflected and examined on how systemic racism shows up in the policies and practices — both formal and informal — of their respective departments and agencies.

The Inquiry also held circles with community members and organizations that have historical connections to the Nova Scotia Home for Colored Children, or insights into the context and circumstances in which it operated. This included past members of the Home Board; members of the AUBA, which had a role in the conception and founding of the Home (see detailed in Chapter 3); community elders; and other community members connected to the history of the Home.

II. Research

Significant research aimed at learning more about the history and experience of the Home was conducted during this phase. The Inquiry identified relevant records and other sources of information related to the history of the Home.

The Nova Scotia Home for Colored Children Fonds

The fonds is multi-media, comprising textual (written) records, graphic materials, and architectural and technical drawings, and runs to 81 boxes (nearly 26 linear metres).

Textual records predominate including corporate or governance records (statutes, By-laws, deeds, etc.); Board of Directors minutes and associated records (including Board committees); annual reports; officer, director and superintendent/executive director correspondence; superintendent/ executive director reports to Board; executive director memoranda; management committee and staff meeting minutes; policies, procedures, protocols, standards, and staff orientation manuals; official journals: 1969 onwards; audited financial statements; cash books: 1923–1932; residents' registers; admission registers; visitors' registers; employee case files; school registers; property and facilities management case files; human resources management case files; bequest case files; abuse allegation case files; external evaluation reports; general operational case files (e.g. annual broadcast fundraiser); newspaper clippings; case and subject files; obituaries; "History of the Home" (research materials, documents and working papers); printed ephemera (pamphlets and brochures).

There is also an extensive series of photographic prints and negatives.

It is important to note that, except one in 1928, all Board minutes from 1921 until 1957 are missing. There are scattered Board and annual meeting minutes from 1958 through to 2011.

The Inquiry first conducted an inventory of the Home records retained at the Akoma Family Centre on the previous Home property. The inventory revealed governance, administrative, operational, and former resident case files dating back to the opening of the Home in 1921. As noted above, the Inquiry worked with the Akoma Family Centre and Akoma Holdings Boards and with the Department of Community Services to clarify responsibility over the files and to determine the best arrangement to ensure the Inquiry full and secure access to the files. To facilitate this access, the Inquiry issued a subpoena to the Akoma Boards and the Department of Community Services. To assure the highest level of security more than 1,800 former resident case files were transferred into the custody of the Department of Community Services. The Inquiry had full access to these files for the duration of the mandate.

The Inquiry conducted a review of all of the resident case files. The available data was analyzed to inform an understanding of the resident population. We have provided an overview of some of the data available from those files (see Appendix C). It is important to acknowledge that there are significant gaps in the information available in the files. The lack of information reflects different data collection and file management policies over time. It is also attributable to human error and failure to collect or complete information regarding children and young people in the care of the Home.

While the resident case files and other reports and documents related to the Home offered significant new insights into the experience of former residents, the first voice of former residents was an essential source of information for the Inquiry. The Inquiry heard from former residents through their participation in sharing circles, but also had access to the records generated as part of the litigation and settlement processes related to the Home. The Inquiry reviewed all of the affidavit evidence submitted in support of the class action claim. Former residents were also given the option, at the time of settlement, to share their information with the Inquiry on a confidential basis. Many chose to do so. The Inquiry reviewed the information from those transcripts of former residents from the class action settlement process.

The information from former residents was particularly important for the Inquiry given the gaps in documentation about the experience of former residents within the case files and the Home records. As the review of the history of the Home in Chapter 3 shows, there was evidence indicating significant issues with the care of residents were raised throughout its operations. However, there is scant evidence regarding the first-hand experience of residents. The stories former residents have shared about their experiences in the Home are consistent with the existing documentation. There was also remarkable consistency across former residents' accounts and from generation to generation about their experiences and the nature of the harms and abuse they suffered at the Home.

In addition to the resident case files, the Inquiry took possession of the remaining Home records. The Inquiry also conducted a thorough review of these Home files. In addition to the review of more than 1,800 resident case files, the Inquiry conducted a comprehensive review of 81 boxes of files amounting to over 160,000 pages from the Home files, referred to by researchers as "fonds."

In addition to the Home fonds, the Inquiry reviewed relevant primary documents related to the Home held at the Nova Scotia Archives, the Esther Clark Wright Archives at Acadia University, the University Archives at Mount Allison University, Department of Community Services, and at Library and Archives Canada (LAC). In addition to these sources, the Inquiry was generously provided access to files of the Late Rev. Fairfax pertaining to the Home and to the Oliver Family fonds. The Inquiry also reviewed relevant historical Government and independent reports related to the Home and all relevant legislation.

The available materials included, for example, annual reports from the Home to the AUBA, reports on the Home by the Superintendent and the Director of Child Welfare, annual appeals by the Home, Board minutes, staff files, newspaper and other media coverage, correspondence, financial records, policy and operational documents, strategic plans, etc.

It is important to acknowledge that there are significant gaps in the available documentation. For example, as we discuss later in the Report, there appears to be almost a wholesale loss of Board minutes from the Home before the 1960s, and the records are spotty until the 1970s. The Home records have not been well maintained in terms of quantity, quality, and orderliness. This is neither surprising nor unusual given the age of the Institution, recordkeeping policies and practices over time, and the challenges of governance and operations at the Home (discussed in detail in Chapter 3).

The Inquiry has also worked closely with the Nova Scotia Archives to secure and preserve the Home files and the historical documents relied upon in this Report within its collection.

The results of this research into the Home and the knowledge gathered regarding the experience of former residents is shared in Chapters 3, 4 and 5.

In addition to a review of original documents and research materials pertaining to the Home, the Inquiry also reviewed existing secondary literature. With a few notable exceptions, the existing literature was generally written for particular purposes (as is the case for *Share & Care: the Story of the Nova Scotia Home for Colored Children*, a book that was commissioned by the Home) and/or depends upon a relatively weak evidentiary basis. The Inquiry was greatly assisted by Dr. Renée Lafferty's consideration of the NSHCC in her book, *The Guardianship of Best Interests: Institutional Care for the Children of the Poor in Halifax 1850–1960*. Dr. Lafferty also generously provided the Inquiry with her original research materials related to the Home.

In support of the learning and understanding phase, in order to provide historical context for the Home, the Inquiry commissioned a submission from Dr. Veronica Strong-Boag on the development of child welfare in Canada as it pertained to the Nova Scotia Home for Colored Children. Dr. Strong-Boag is a fellow of the Royal Society of Canada and professor emerita in UBC's Institute for Gender, Race, Sexuality and Social Justice. She is an awarding-winning scholar and the leading expert on the history of childhood and of the development of child welfare in Canada. We asked that she prepare her submission on the basis of her research and numerous publications on the subject matter relevant to the Home. These include *Fostering Nation? Canada Confronts its History of Childhood Disadvantage* (2011), *Finding Families, Finding Ourselves: English Canada Encounters Adoption from the 19th Century to the 1990s* (2006). Dr. Strong-Boag's submission was extremely important in helping frame our analysis of the Home contained in Chapter 5.

Members of the Council of Parties were directly involved in the research and review of files. They were supported in this work by researchers on staff and at the Nova Scotia Archives and the Department of Community Services. Support was also provided by other archivists throughout the province and in Ottawa.

III. Determining the Central Issues

This research, along with the knowledge gathered through former resident sharing circles, partner circles, and the knowledge-sharing circles, helped Council to identify its central issues. These central issues reflected the understanding of the history of the Home and the lessons it has to offer gained through the Inquiry work to that point. These central issues provided the focus for the Inquiry's work to achieve its mandate.

To determine its central issues, the Council of Parties reviewed the knowledge gathered through the processes and research and identified the wide range of issues that emerged in relation to the history and experience of the Home. The impacts and implications revealed ran wide and deep. The challenge for the Council of Parties was to identify which of these issues mattered most for the parties and was most central to the mandate of the Inquiry. The Council of Parties examined all the issues and sorted them according to those that were *related* to the mandate, those more directly *connected*, and those that were *central* to the mandate. The Council recognized the Inquiry had to focus its time and attention on central issues given the limits of time and resources and its objective to make a tangible difference. However, it was also clear that, in doing so, it must be mindful of the impact and influence of its work on other connected and related issues. Indeed, the Council of Parties explicitly committed to taking these relational impacts into account as it determined how to proceed with its work.

The Council of Parties employed the following criteria in determining the issues the Inquiry would focus on:

Related Issues represent broader/ systemic issues reflective of our collective responsibility and/or important factors impacting the central Inquiry issues that require care and attention in the way in which central issues are addressed.	• Often underlie or show up in central issues • Often at the heart of fundamental/societal change sought • About systemic/societal change • Reflect vision of the better future we want to contribute to achieving • Overarching issues/themes requiring multiple complex layered interventions and steps beyond the time frame and scope of Inquiry mandate
Connected Issues will not be direct focus of Inquiry but will be addressed as/when connected to central issues.	• Inquiry cannot address central issues without attending to the impact of these connected issues • Work on central issues may offer lessons for connected issues • Important to lift up and encourage/support action by others on issues connected to Inquiry central issues
Central Issues will be direct focus of the Inquiry	• Within mandate and objectives of Inquiry • Issues that emerge from/are responsive to what was heard and learned from former residents and partners about the NSHCC • Issues that direct attention from Inquiry can make a difference • Issues that require collective action • Can be addressed during the time-frame of the Inquiry

The Council determined its efforts to deepen learning and understanding in support of planning and action would focus on three central issues: Responses to institutional abuse (and other failures of care); the experience of children and youth in care (with the care system); and the ongoing and historic impacts of systemic racism on African Nova Scotians. An overview of each issue is provided here, however, the issues are explained and elaborated further throughout this Report. They frame the analysis of the history and experience of the Home and of the way ahead in Chapters 5 and 6.

1. Responses to Institutionalized Abuse (and other failures of care)

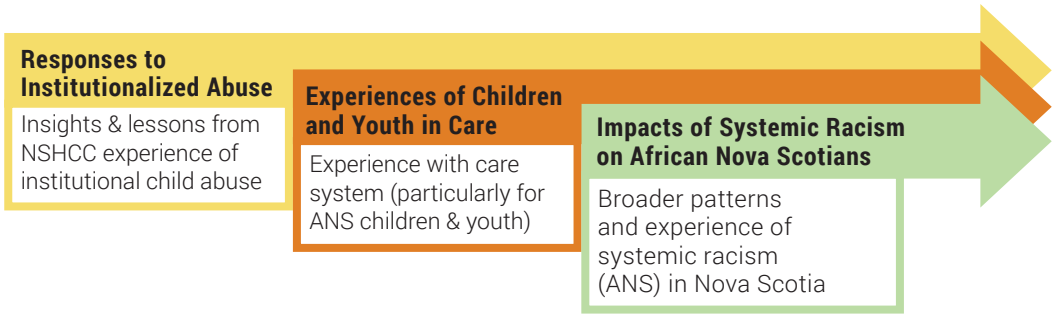
The Inquiry had its genesis in the call to respond to the institutionalized abuse experienced by former residents. Understanding the legacy of the Home requires more than simply knowing what happened to former residents under the Home's care. It requires examining the context in which the Home operated and the ways that people with various levels of connection, authority, and responsibility did (and did not) respond to reported abuses. This includes responses within community and within public agencies, such as the education, child welfare, and justice systems. It also includes examining how former residents' needs and concerns were addressed both as children in care and as adults coming forward to seek justice.

2. Experiences of children and youth in care

As we came to understand the former residents' experience of abuse and consider the responses, it became clear that we must look more broadly at the system and experience of care to understand the harms and abuse former residents experienced. The Restorative Inquiry examined the experience of former residents in the context of the system of care and considered what perspective that offered on the experience of children and youth within the system of care in Nova Scotia today. The Council paid particular (but not exclusive) attention to the experiences of African Nova Scotian children, youth, and families. The system of care here refers to the range of systems, services, agencies, and organizations responsible for meeting the care needs of children and youth, including, but not limited to, child protection, education (including post-secondary education), the justice sector (including policing), health, and the range of community-based supports designed and dedicated to care. This work examined how the relevant systems within Government and community can work better in more collaborative and integrative ways with each other, and with the families and communities they serve, to meet the needs of vulnerable children and youth.

3. Historic and ongoing impacts of systemic racism on African Nova Scotians

As the Mandate of the Inquiry makes clear, addressing the legacy of the Nova Scotia Home for Colored Children requires understanding and reckoning with the historic legacy of systemic racism, as African Nova Scotians have experienced it for generations. Through the lens of the Home and in connection with the central issues of responses to abuse (failures of care) and the system of care, the Inquiry examined the ways that systemic and institutional racism continue to surface in laws, policies, practices, and behaviours — both formal and informal — that have an ongoing harmful effect on African Nova Scotian people and communities. The previous Council of Parties report (Winter 2017) outlined some of what we heard around the province about the ways that systemic racism continues to affect African Nova Scotians, especially in interactions with Government and other public agencies. The Inquiry appreciated how its work is connected and related to a range of issues rooted in systemic racism in Nova Scotia. This knowledge significantly informed the analysis and plans for the way forward contained in Chapter 6. The Inquiry worked with partners to develop a deeper understanding of how systemic and institutional racism continues to impact our system of care, and to contribute in foundational and lasting ways to the work of long-term structural changes needed to create an equitable future.



The central issues fed into and served as catalysts for one another throughout the work of the Inquiry. Examining the context of the Home and the responses to the abuses that happened there informed the understanding of the current system of care. It brought light to the ways that the experiences and issues identified by former residents still require attention within the system of care in Nova Scotia. This prompted a wider consideration of the impact of systemic racism directed toward African Nova Scotians and how this shows up across other systems and institutions. The Inquiry sought to ensure its approach and the actions and plans that emerged from the process would make a contribution toward addressing these wider impacts.

All three central issues were informed and framed by the experience of the Home and the lessons learned, and they all seek to make a difference for the future, yet they differ slightly in temporal focus. The response to institutionalized abuse is focused on examining, understanding, and

learning from the specific experience and response of systems, organizations, and community to the Home in the past, while residents were in the Home, and, later, as they sought redress for the harms they experienced. Examining the experiences of children and youth with the system of care was informed by the experience of former residents but was focused on the present care system and understanding the ways that issues identified by former residents still require attention within the current (and future) system of care. Understanding and addressing historic and ongoing impacts of systemic racism on African Nova Scotians, while necessarily rooted in both past and present experiences, is a critical lens necessary to create meaningful change for the future.

It has been clear throughout the Inquiry, as is reflected in the analysis in this Report, that these issues cannot be understood in isolation from one another. It was sometimes helpful to focus on the issues individually, for example, to identify and bring parties with particular knowledge and responsibilities related to one of the central issues into the process. However, great care was taken to ensure that the integrated and holistic nature of the issues, particularly evident when viewed from the perspective of former residents or current children, young people, and families, was not lost or obscured by the process. To that end, the intersections and connections between and among the issues was given lots of attention in the way in which the processes where designed. This approach and understanding are evident in the integrated nature of the actions, plans, commitments, and recommendations that emerged from the process and are shared in Chapter 7.

IV. Deepening Learning and Understanding

These central issues structured the focus and work during the remainder of the second phase of the Inquiry. The work during this time was focused on deepening learning and understanding of the central issues. The processes considered the implications of the insights and lessons revealed through an examination of the history and experience of the Home for the central issues today. This work helped discern the plans and actions required to address these issues and make a difference for the future.

The second part of the learning and understanding phase built upon the work done earlier within individual groups and organizations to bring parties from different backgrounds, sectors, and areas of focus together to work collaboratively and seek broader and deeper understanding of the central issues. The Inquiry continued to convene knowledge-sharing circles during this phase. These circles shared learning and understanding from the Inquiry processes to that point and invited parties' reflections through the lens of the central issues. Circles during this phase were also designed to gather more information and knowledge in targeted ways to deepen understanding of the central issues. The processes engaged individual parties (intra-party circles) and, importantly, brought multiple parties and individuals (multi-party circles) together to share different perspectives and experiences related to the central issues.

This phase of the work engaged different individuals, groups, and organizations in multiple settings including:

- Professionals with a connection to the central issue of responding to institutionalized abuse, including social workers, lawyers, police, public administrators, and Government leaders.
- Experts on child welfare, dispute resolution and complaint processes, privacy, and Government accountability.
- Community organizations and agencies connected to, or frequently in contact with, the care system. For example: family resource centres, youth-serving agencies, mental health services, Federation of Foster Families of Nova Scotia, restorative justice agencies, Halifax Public Libraries, Mi'kmaw Family and Children's Services of Nova Scotia.
- Youth (aged 16–25) with current or recent experience in the care system.
- Former residents of the Nova Scotia Home for Colored Children.
- Policy-makers, program leaders, and front-line service delivery staff from various agencies and Government departments related to the care system. This includes representatives from Community Services, Justice, Halifax Regional Police, RCMP, Health and Wellness, Nova Scotia Health Authority, IWK Health Centre, Education and Early Childhood Development, and Labour and Advanced Education.
- Community members and organizations closely connected to the Home, including members of the Akoma Board (formerly the NSHCC Board), the AUBA, and other connected community members.

These knowledge circles helped define and refine the central issues. They revealed aspects of the issues that required further attention within the Inquiry to understand the issues more fully and to identify changes and action needed to make a difference. Participants took part in multiple circles focused within or across the central issues. For example:

- Based on insights from earlier Inquiry processes, it was clear that understanding the experience of young people with the care system required attention to experiences related to the formal child protection system. The Inquiry held processes to explore the experience of young people during care, leaving care, and the circumstances by which young people come into the care of the State.
- Justice system stakeholders and others were also brought together through multiple processes to consider responses to abuse and failures of care.
- Sessions also examined (in connection with other issues and independently) the role and impact of systemic racism in each of the central issues.

- To deepen its understanding of systemic racism and the experience of care, the Council of Parties also held a circle with Mi'kmaw leaders and experts on child welfare and family-led decision-making.

Following such knowledge sharing circles, the Inquiry focused on issue dialogue circles targeted to deepening understanding of each of the central issues. The Inquiry brought together parties and other individuals with specific knowledge or connections to a central issue. This stage of the Inquiry brought new participants into the work alongside others because of their connection and knowledge related to the central issues. These issue dialogue circles played an important role in making connections and building relationships among parties that are important for successful planning and action on these issues. The processes supported parties to understand and to identify elements of the way forward in order to address these issues.

Research continued during this phase. Research focused on the central issues both as a lens through which to analyze the history and experience of the Home and also in order to consider current research and experience dealing with these issues.

The Council of Parties carefully reviewed and considered previous Inquiry and other reports related to the central issues. Among those reviewed were Justice Kaufman's 2002 *Independent Review of Nova Scotia's Response to Reports of Institutional Abuse* (volumes 1 and 2); the Law Commission of Canada's Report *Restoring Dignity, Responding to Child Abuse in Canadian Institutions; The Marshall Inquiry: Royal Commission on the Donald Marshall, Jr., Prosecution*; the Report of the Canadian Truth and Reconciliation Commission; the Ontario Human Rights Commission 2018 report *Interrupted Childhoods: Over-representation of Indigenous and Black children in Ontario child welfare*; and the Manitoba Advocate for Children and Youth's Report on the Death of Tina Fontaine.

In conducting research, particular attention was paid to other jurisdictions seeking similarly different ways forward on these issues. Research was undertaken by the Council of Parties with support from Inquiry staff and other experts.

The Inquiry was fortunate in this regard to have access to experts from the Restorative Approach International Learning Community (ILC). This is an international network of researchers and practice leaders supporting jurisdictions taking a restorative approach to building healthy and safe communities. Experts from the ILC were generous with their time and knowledge. They shared relevant and current research related to the central issues. They identified current developments in law, policy, and practices worthy of the Inquiry's attention. Their research and advice provided significant information and evidence that informed the Inquiry's analysis of the central issues and the way forward (see Chapter 6).

This expert support was also available to parties in support of their collective efforts to deepen learning and understanding and plan for action during the mandate of the Inquiry. For example:

- Researchers and leaders in racial justice from the USA visited with staff and commissioners at the outset of the Inquiry and returned in the final phase of the Inquiry to meet with various parties and make public presentations.
- Experts on child welfare and family-led decision-making from Australia, New Zealand, the United Kingdom, and the United States offered a workshop at the end of the first phase of the Inquiry's work that was co-hosted by the Inquiry and Department of Community Services.
- Members of the Council of Parties together with a delegation of those working in child welfare in Nova Scotia participated in a learning exchange with experts in conjunction with an international conference directly related to the central issues.
- Expertise oral history, history, and history education was offered by partners involved with the Inquiry in the Digital Oral Histories for Reconciliation project (see Chapter 7).
- Experts in child welfare and human services offered several workshops for parties during the learning and understanding phase and the planning and action phase (detailed below).

A list of experts that supported the work of the Inquiry is provided in Appendix A.

C. Planning & Action Phase

The Inquiry was designed to support action by bringing multiple partners together to establish common understanding of the complexities of the central issues. The relationships, understandings, and commitments developed through the Inquiry are foundational to the way forward toward long-term and sustainable change on the central issues.

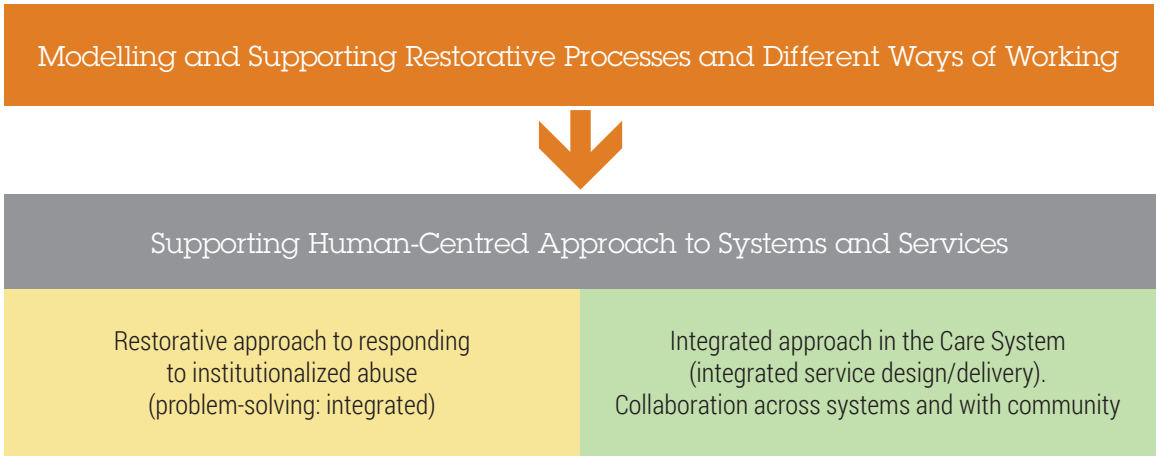
One way the Restorative Inquiry differed significantly from a traditional public inquiry model was its commitment to planning and action within the mandate of the Inquiry. Traditional inquiries typically conclude with a report outlining recommended actions for others to undertake in the future. Throughout the process, the Inquiry heard from participants in Government and community that the lessons from the Home continue to be relevant as current systems and structures remain siloed and fragmented and reflect systemic racism in ways that pose challenges to providing the sort of care children and families need. During the learning and understanding phase, relevant parties in community and Government engaged with the Council of Parties to identify issues that

Throughout the process, the Inquiry heard from participants in Government and community that the lessons from the Home continue to be relevant as current systems and structures remain siloed and fragmented and reflect systemic racism in ways that pose challenges to providing the sort of care children and families need.

need to be addressed and the changes needed to make a difference. They then began to plan and take action in response to these challenges.

As detailed in Chapter 7, some action and planning has begun, and parties have made commitments on other issues or initiatives. The Council of Parties also identified recommendations on the basis of Inquiry processes. It is also hoped that other work will emerge as a result of the Inquiry, as partners who have come together through the process sustain their work in identified areas after the formal end of the mandate.

The learning and understanding phase of work revealed an overarching need related to all the central issues to focus planning and action on the need to take a more human-centred approach to systemic issues that have often been addressed in a siloed and fragmented way. As discussed in detail in Chapters 6 and 7 of this Report, the shift to be more human-centred was modelled by the restorative approach of the Inquiry. Work during the planning and action phase of the Inquiry facilitated parties working together to consider what is required to bring about such a shift to make a difference on the central issues. The planning and action phase identified and pursued elements of this shift with respect to the central issues.



Modelling and supporting restorative processes and different ways of working: The collaborative, restorative approach of the Restorative Inquiry is, in itself, a model for problem solving that Government, other agencies, and communities can use in the future to learn and act together across sectors, silos, and other dividing lines. This type of process can also be used in research, information gathering, and knowledge sharing.

Supporting human-centred approaches to systems and services: The Inquiry worked with parties to develop more responsive, proactive, and preventative models to human services.

Developing integrative approaches within the care system: One key area of a more human-centred approach is adapting a more integrated approach within the care system that allows for better collaboration between agencies and with community partners, members, and organizations.

Developing a restorative approach to responding to institutional abuse: The Inquiry worked with parties to develop capacity to respond restoratively to institutional abuse in the future.

Throughout the planning and action phase in all these areas, particular focus was placed on understanding and addressing systemic racism and its role and impact.

The Inquiry approached its activities and processes during the planning and action phase with the aim to contribute to the conditions needed for action to continue and plans and commitments to be carried out after the conclusion of the Inquiry. The Inquiry facilitated processes during the planning and action phase in ways that encouraged and supported leadership among the parties involved.

The Inquiry also took the opportunity afforded during the planning and action phase to build capacity for collective action to implement plans. This was particularly true, for example, with respect to the shift in the system of care to be human-centred and the orientation to family-led decision-making as an essential element of that shift. In support of the parties' commitment for action on this front, the Inquiry held expert-led workshops to support the development of the knowledge and skills required for planning and action. The Inquiry facilitated multiple workshops for Government and community partners and others key to this work, including four days of workshops dedicated specifically to family-led decision-making including international experts in research, policy, and practice in the field from the United Kingdom, New Zealand, and the United States.

The planning and action phase of work also included other circles, meetings, and workshops aimed at identifying, planning, and building capacity to take action on the central issues. This phase also supported the implementation of some actions during the mandate of the Inquiry. For example, the Inquiry supported community-convened restorative-based community conversations as part of the way forward during this phase (for more details see Chapter 7). Other elements of the way forward were undertaken and completed as part of this phase of work, including changes to the file access process for former residents and implementation of the Digital Oral Histories for Reconciliation (DOHR) project in two grade 11 classrooms in Nova Scotia. Details of the elements of the way forward determined through the planning and action phase are provided in Chapter 7.

Reporting/Sharing

Throughout the mandate, the Inquiry made regular efforts, with the support of VOICES, to provide information and updates to the former residents. This work was in addition to the engagement of former residents within the Inquiry processes throughout the mandate. As noted above, one of the ways information was shared with former residents was at "Tea & Talk" sessions (28 such sessions were held over the course of the Inquiry). In addition, there were retreats and a final session is planned for former residents prior to the release of this Report.

As discussed above, the Inquiry took seriously its responsibility to be a "public" inquiry both in terms of ensuring the Inquiry was conducted *in the public interest* and the public was engaged with the work throughout. The restorative approach to this Inquiry meant that segments of the public were directly and actively engaged in processes throughout. As described in this Chapter, public representatives, community organizations, groups, and members from the African Nova Scotian community and the broader Nova Scotian community were involved in the Inquiry processes in a variety of ways. In order to encourage and support public involvement, the Inquiry made significant efforts to report on and share its mandate and progress regularly with parties and others with an interest or connection to the work. The Inquiry dedicated a significant amount of time and effort to making such presentations throughout its mandate. Members of the Council of Parties presented at a number of other forums to ensure a broad reach and engagement with the work of the Inquiry. Some of these presentations were arranged and hosted by the Inquiry and others were by invitation to the Council of Parties. These presentations supported wide dissemination and mobilization of the learning and understanding from the Inquiry among parties and others in real time. They also afforded important opportunities to invite participation and engagement of new parties in support of the Inquiry's mandate along the way. The Council of Parties presented to:

- Party caucus meetings
- Academic conferences related to the central issues
- Community workshops/ conferences
- Professional bodies/ associations
- Partner organizations
- Schools/universities
- Public presentations
- Community meetings
- National and international delegations/visitors
- Professional/public publications
- Media

By way of example, the Inquiry presented its work at the following events:

- Halifax Regional Municipality Council
- Halifax Regional Municipality Executive Standing Committee
- Halifax Board of Police Commissioners
- Senate of Canada Standing Committee on Legal and Constitutional Affairs
- Justice Canada
- 8th National Conference on Critical Perspectives: Criminology and Criminal Justice – Canadian Criminal Justice Association
- International Restorative Justice Conference: Global Unity and Healing, Vermont, USA
- Roundtable with Federal Minister of Immigration, Refugees and Citizenship
- National Judicial Institute – Judicial Education Conference
- Communities Addressing Suicide Together (CAST) Conference, Nova Scotia Health Authority
- Institute for Research on Public Policy
- National Restorative Justice Symposium
- Nova Scotia Department of Justice Management Team
- Canadian Bar Association
- Reclaiming Social Work Conference, Department of Community Services

In addition to these presentations, the Inquiry made a point of travelling to communities throughout the province at the outset and during the final phase of its work with additional sessions during the mandate. The Inquiry made presentation on its work at over 30 sessions in African Nova Scotian communities. These included members of the Council of Parties travelling to communities across the province in February 2019 in order to report on its work as the planning and action phase was underway and in anticipation of this final report. Reflective of the restorative approach of the Inquiry, the Council of Parties was committed to sharing the learning and understanding and the planning and action underway to support communities and public engagement with the work ahead following the Inquiry.

In addition to sharing the work and the progress of the Inquiry through such processes and presentations, the Inquiry also reported to the general public on its process and learnings during its mandate. As noted at the beginning of this Chapter, the Council of Parties issued three public

reports during its work (February 2017; January 2018; February 2019). These public reports were intended to share the process and substance of the Inquiry's work with the general public. The Council of Parties held press conferences when each report was released as a further way to support public dissemination and understanding.

Finally, this Report shares the totality of the Inquiry's work and the outcomes of the process: what has been learned and understood and the planning and action that has resulted. As part of this final reporting, the Council of Parties has developed a video series (in collaboration with filmmaker Sylvia Hamilton) to share the approach, experience, and impact of the Restorative Inquiry.

It is the Inquiry's hope that this Report will serve as a shared resource to support collective understanding and action in the future.

The Inquiry also held a public event in March 2019 to explore lessons learned from the experience of the Inquiry about the potential for a restorative approach to address the issue of racial justice. This event brought international expert Margaret Burnham together with local leaders in the field and community to consider the model and work of the Inquiry.

As discussed in Chapter 1, this Report is intended to record and share work within the Inquiry process. This is work that parties have been actively involved and engaged in. While not all parties have been involved in all aspects of the work, and, thus, may not be aware of everything contained in this Report, the substance of the Report should be generally expected, anticipated, and welcomed by parties and participants. The Inquiry also met with many of the parties in advance of its release to share the report approach and contents. These meetings provided another opportunity to engage with parties about the next steps in the way ahead following the end of the Restorative Inquiry process. It is the Inquiry's hope that this Report will serve as a shared resource to support collective understanding and action in the future.

Endnotes:

[1] Report of the Working Group of Experts on People of African Descent on its mission to Canada, submitted to Human Rights Council Thirty-sixth session 11–29 September 2017 Agenda item 9. Available online at: https://ansa.novascotia.ca/sites/default/files/files/report-of-the-working-group-of-experts-on-people-of-african-descent-on-its-mission-to-canada.pdf

[2] For definition of the Sankofa see: https://www.uis.edu/africanamericanstudies/students/sankofa/

[3] See generally, Ronda Bessner and Susan Lightstone, *Public Inquiries in Canada: Law and Practice* (Carswell Publishing, 2017); J.H. Gomery, "The Pros and Cons of Commissions of Inquiry," (2006) *McGill L.J.*, 51: 783; JE Beer, ed., *Public Inquiries* (Oxford University Press, 2011).

[4] Northern Frontier, Northern Homeland: The Report of the MacKenzie Valley Pipeline Inquiry Vol. 1 available online at: https://www.pwnhc.ca/extras/berger/report/BergerV1_complete_e.pdf and Vol 2 http://publications.gc.ca/collections/collection_2017/bcp-pco/CP32-25-1977-2-eng.pdf. For an analysis of approach to the inquiry see: Kim Stanton, Looking Forward, Looking Back: The Canadian Truth and Reconciliation Commission and the Mackenzie Valley Pipeline Inquiry (2012) 27:1 81–99.

[5] Jennifer Nedelsky, "Embodied Diversity and the Challenges to Law" (1997), 42 McGill L.J. 91, at p. 107. vi Renée Lafferty, *The Guardianship of Best Interests: Institutional Care for the Children of the Poor in Halifax 1850–1960* (Montreal: McGill Queens University Press, 2013).

CHAPTER THREE

History of the Nova Scotia Home for Colored Children: Governance, Operations & Living Conditions

Origins of African Nova Scotians in this Province

Understanding the context, causes, and circumstances of the story of the Home requires some examination of the origins of African Nova Scotians in this province. People of African descent have been in Nova Scotia for centuries. In the early 1600s a free Black African interpreter Mathieu Da Costa may have accompanied French traders.[1] A small number of people of African descent came to Nova Scotia as enslaved persons in the late seventeenth and eighteenth centuries. There were, for example, a number of persons of African descent at Fortress Louisbourg, Cape Breton (Ile-Royale). More than 200 enslaved persons lived on the island between 1713 and 1760.[2]

After the establishment of the British settlement at Halifax, historical records show enslaved persons of African descent were imported by local merchants as early as 1752 and sold at public auctions in the heart of the city. The following advertisement posted in the *Halifax Gazette* in 1752, illustrates Nova Scotia's public participation in the Transatlantic Slave Trade:

Advertisement

Just imported, and to be sold by Joshua Mauger, at Major Lockman's Store in Halifax several Negro Slaves, viz. A very likely Negro Wench, of about thirty five Years of Age, a Creole born, has been brought up in a Gentleman's Family, and capable of doing all sorts of Work belonging thereto, as Needle-Work of all sorts, and in the belt Manner; also Washing, Ironing, Cookery, and every other Thing that can be expected from such a Slave: Also 2 Negro Boys of about 12 or 13 Years old, likely healthy and well shap'd, and understand some English: Likewise 2 healthy Negro Slaves of about 18 Years of Age, of agreeable Tempers, and fit for any kind of Business: And also a healthy Negro Man of about 30 Years of Age.[3]

The New England Planters, white settlers from the New England colonies, settled in Nova Scotia between 1759 and 1765 and brought with them enslaved persons of African descent. Following the American Revolutionary War (1775 – 1783), more than 3,000 Black Loyalists came to Nova Scotia. Some came as enslaved persons, but many were free persons of who had been loyal to British forces during the war. Their arrival was recorded in the Book of Negroes.[4] More than a decade later, approximately 600 Jamaican Maroon men, women, and children exiled from Trelawny, Jamaica, arrived in Nova Scotia in 1796.[5] As a result of the War of 1812, African-Americans escaping slavery also began arriving in Nova Scotia. Approximately 2000 of these "Black Refugees" settled in Nova Scotia.[6]

The origin story of the Home is reflected in the complex and often-difficult relationships African Nova Scotians shared with the province's governing classes. Invariably, these relationships were characterized by race, social and economic status, and an inherent imbalance of power that impeded the pace of progress for African Nova Scotians throughout their history in this province and still today.

One particular theme unique to those of African descent in Nova Scotia was the unrelenting impacts of race. One impact of race was the imposition of Eurocentric policies, such as segregation, that dictated where African Nova Scotians would live and what services they would receive. In the early years of African Nova Scotian settlement, patterns of segregation were commonplace. The locations where African Nova Scotians could live were usually near emerging major townships or economic hubs, and most did not have adequate municipal services or supports.[7] By the late 1800s, African Nova Scotians were rooted in approximately 40 communities across the province, most of which were isolated from one another. People struggled to find daily provisions and to secure their lands. Acquiring legal title to lands for African Nova Scotians often proved difficult to impossible, despite many being second- and third-generation occupants. Many of those residing in the province in the late 1800s were living on lands for which the Province issued only "Certificates of Occupancy/Location," as opposed to deeds.[8]

African Nova Scotians also struggled to find employment for themselves and educational instruction for their children.[9] Some had access to day labour employment or were involved in small-scale farming, and others were servants to wealthy white families. African Nova Scotians did not have access to capital, and had difficulty becoming involved in commercial enterprises. Many communities had no access to employment and selling goods without access to transportation was challenging.[10] The issuance of "rations" to African Nova Scotian communities in the early 1800s was commonplace and petitions were sometimes sent to Government seeking provisions on behalf of entire African Nova Scotian communities.[11]

With respect to education for their children, African Nova Scotians often found themselves petitioning for education and educational resources. African Nova Scotian teachers often provided education and teachings to children without any public or state compensation. For instance, approximately 30 householders in Preston supported a petition for a salary filed by schoolmaster James Bell.[12] Although laws would be enacted to allow for compulsory education, school commissioners were also provided with the authority to create separate schools.

Similarly, petitions were made to Government seeking help in establishing churches. However, when 50 African Nova Scotian residents filed a petition with the Lieutenant-Governor to establish a church in Upper Hammonds Plains, the petition was, instead, referred to the Bishop of Nova Scotia, who decided not to proceed further because he believed the proposed church would not follow the "established religion."[13] Left with very few options, many African Nova Scotian communities created their own organizations and institutions because of their exclusion from services in white society. Out of necessity, African Nova Scotian communities established their own social clubs, school committees, and faith gatherings. African Nova Scotians also recognized the importance of an established church in which they could practise their faith.

A. Origins of the Church/AUBA

There is little doubt the Church has always been a focal point for African Nova Scotian communities. As stated by E.P. Skinner in the foreword to McKerrow's *Brief History of the Colored Baptists*:

> ....and like Blacks all over the New World, they used that one institution in which they were completely autonomous, the Church, as an all-purpose organization to aid them in their survival.[14]

Churches were well-organized institutions that ministered to spiritual needs, performed social and educational functions, and provided community leadership voices. Religion was fundamental to the Black experience in North America; in slavery, it was the only consolation; in freedom, it inspired exultation and gratitude.[15]

Religion was fundamental to the Black experience in North America; in slavery, it was the only consolation; in freedom, it inspired exultation and gratitude.

Robin Winks, however, reminds us about how religious institutions can "delay" the formation of other more secular — more activist — voluntary associations. Thus, abolition societies or land associations borne out of the church invariably arose from within the congregation, hence the leadership was usually the same, and the result was a series of interlocking directorates. Often the interlocking directorates produced a single member whom the whites treated as the sole local spokesperson for the entire Black community.[16]

Black Baptist churches in particular were venues for social, educational, and spiritual purposes, and served as a vehicle for social cohesion within African Nova Scotian communities. The African Baptist Association ("ABA"), which later became the African United Baptist Association ("AUBA"), was an empowering medium that helped African Nova Scotians in their fight for equal opportunity and social justice. As stated by Dr. Bridglal Pachai, in *Beneath the Clouds of the Promised Land*:

> ....the Church was more than a religious organization, it was a training ground for generations of Black leaders, preachers, teachers, politicians and professionals.[17]

Early settlements in Nova Scotia often received preachers and other church officials from congregations in the United States. These new preachers and church officials were expected to support local congregations and recruit new memberships. African Nova Scotians benefited from this practice as many Baptist and Methodist preachers and missionaries from the United States arrived in the province throughout the 1700s–1800s. Reverend John Burton was one

of the first white missionaries to integrate Black and White Nova Scotians into the same congregation at the First Baptist Church in 1795. He developed a strong following and, later, was instrumental in providing Reverend Richard Preston opportunities to preach.

Reverend Richard Preston is credited with providing the inspiration and vision that led to the formation of the AUBA. Rev. Preston arrived in Halifax in 1815 along with the Black Refugees. Fondly known as Father Preston, he took on many opportunities to preach and his commitment to spreading the word of God resulted in the organization of meeting houses, spiritual gatherings, and churches. Rev. Preston was formally ordained in London, England, in 1832. Upon his return to Nova Scotia, he assumed leadership of the African Baptist Church on Cornwallis Street in Halifax. Over the next 20 years, he established several churches throughout the province and convened meetings of all Black Baptist churches.

For many in African Nova Scotian communities, the Church became their social and political voice, and was the vehicle used to address the plight of Black Nova Scotians. The Church sought redress and championed causes, and it also had the moral authority to speak on behalf of the community. It had no rivals within the African Nova Scotian community and was a stakeholder in most deliberations about its people. According to Frank S. Boyd, African Baptist churches arose without much charity or goodwill from white Nova Scotians. On the contrary, African Baptist churches came into existence despite concerted resistance by white Baptists.[18]

Since its creation, the AUBA has been a significant institutional voice in the African Nova Scotian community. The AUBA stressed the need for unity in community and advocated for solutions to social and economic challenges.

When African Nova Scotians were denied full participation in other established churches, they were prepared to follow a separate path to Christian salvation.[19] They created the AUBA, which not only provided a path to Christian salvation but also gave community a voice for advocating for a better life. In essence, the AUBA grew out of a need for each Baptist church to support one another.

The inaugural meeting of the AUBA took place in September 1854, when ordained ministers, licensed ministers, deacons, and elders constituted the AUBA's founding members. The AUBA initially consisted of 36 delegates from 12 Black Baptist churches.[20] The AUBA would become the largest and oldest-serving organization in the history of African Nova Scotians.

Since its creation, the AUBA has been a significant institutional voice in the African Nova Scotian community. The AUBA stressed the need for unity in community and advocated for solutions to social and economic challenges. Pachai describes the important place of the AUBA:

> … the AUBA has weathered many storms, has introduced committees and programmes to respond to all needs and sectors of the Black community. It has served, and continues to serve, as a provincial forum of considerable merit and potential.[21]

When African Nova Scotian communities were facing severe poverty, racism, unemployment, and a lack of educational opportunities, the leadership of the AUBA called for and encouraged members to support their churches financially, support those in need, and promote the establishment of schools in various communities. By the turn of the 20th century, when there was a growing concern in the African Nova Scotian community with respect to care for African Nova Scotian children, the issue was taken up by the AUBA.[22]

B. African-American Influences

AUBA records reveal that African Nova Scotians looked to the African-American experience for assistance and guidance on issues because they shared similar history, experiences, and perspectives on self-reliance and independence in a racialized society. Both African Nova Scotians and African-Americans were endeavouring to acquire full citizenship rights within racialized societies. Connections between African Nova Scotians and African-Americans were forged and reinforced through the reach of the Baptist Church and through family affiliations across borders. This affinity between African Nova Scotians and African-Americans often resulted in the exchange of ideas, strategies, and concepts across borders. Likewise, ideas on meeting care needs for children of African descent were shared among African Nova Scotians and African-Americans. For example, African Nova Scotians were inspired by the African-American experience of caring for Black children through the creation of the Colored Orphan Asylum in New York in 1836 and the Home for Colored Children in Pittsburgh in 1880. The African-American experience in creating child-caring institutions was often conveyed through the work of African-American churches and visiting clergy like Reverend Moses Puryear.

Similar efforts to create an institution to care for African Nova Scotian children were undertaken in Halifax during the early 20th century. James R. Johnston, a prominent lawyer and the first indigenous Black graduate of Dalhousie University, played a central role in this regard. In 1907, he served as secretary of the African Baptist Association, clerk of the Cornwallis Street Baptist Church, and superintendent of the Sunday school. Johnston was also a Black Freemason and heavily involved with the Order of Odd Fellows organizations. By virtue of his education, profession, and organizational connections, Johnston was an influential member of an emerging privileged class within the African Nova Scotian community.

Johnston was also a supporter of Booker T. Washington's strategy in the United States of creating institutions for the uplift of African-American young people. Washington, who later visited Nova Scotia to lend support,[23] was an African-American who called for Black progress through education and entrepreneurship rather than directly challenging Black segregation and disenfranchisement. Washington was the principal developer of the Tuskegee Normal and Industrial Institute, having previously been involved with the Hampton Normal and Agricultural Institute in Virginia. In establishing the Tuskegee Normal and Industrial Institute, Washington acquired significant experience in mobilizing a coalition of middle-class Blacks, church leaders, and white philanthropists and politicians with a long-term goal of building Black community development.[24] His knowledge and experience in building coalitions to establish economic development for people of African descent was significant to the AUBA leadership as they deliberated the growing concern of African Nova Scotian children in need.

Given that the public education system was segregated in Nova Scotia, Johnston, like Washington, supported the creation of an Industrial School to provide more opportunities for people of African descent. Johnston first proposed the creation of a preparatory agricultural and industrial institution, like Washington's Tuskegee Institute to the AUBA to address the needs of African Nova Scotian children. As a prominent Black lawyer in Nova Scotia, Johnston was in a unique position to interact with both Black and White leadership in social and political circles. His connection to the AUBA meant he was also well positioned to mobilize broader Christian support for such an enterprise.

During the AUBA's annual meeting in 1908, the leadership urged its members across the province to take up education and they discussed the establishment of a preparatory "Agricultural and Industrial Institution." Similarly, a motion tabled at a session of the AUBA's Auxiliary Board instructed the institution to take the necessary steps to establish a "Normal & Industrial Institute." AUBA members expressed their personal commitment with financial pledges which highlighted how important the idea was, given the support came in the midst of financial hardship and a lack of economic resources. The records show Rev. White, J.R. Johnston, Sister L.A. Bailey, Deacon Thomas Langford, and Deacon Samuel Alison were among those who donated.[25] It is noteworthy that the Normal and Industrial Institute was to be a training facility for African Nova Scotian children to make them productive members by providing training in skills. However, this vision for the institution soon shifted to an institute that prioritized child caring over training.

In 1909, Reverend Moses Puryear arrived from the United States to become pastor of the Cornwallis Street Baptist Church. Reverend Puryear also supported Johnston's plan for a training facility, and by 1914 they had developed a proposal and were seeking public support for the industrial school model. Support for the establishment of a training facility was provided not only by middle-class educated Black leaders but by many affluent white businessmen and philanthropists.

The idea of a Home for African Nova Scotian children also received a great deal of support from the women of the AUBA. Women of the Church played central roles in African Nova Scotian communities — supporting families and children in spiritual, social, and educational needs. Women in the Church exercised important leadership roles, though not officially "named" as leaders. This is in keeping with the findings of scholar Bernice McNair Barnett in examining the role of Black women in the Civil Rights Movement:

> Although seldom recognized as leaders, these women were often the ones who initiated protest, formulated strategies and tactics, and mobilized other resources (especially money, personnel and communication networks) necessary for successful collective action. In their homes, churches, voluntary associations, political organizations, women's clubs …[26]

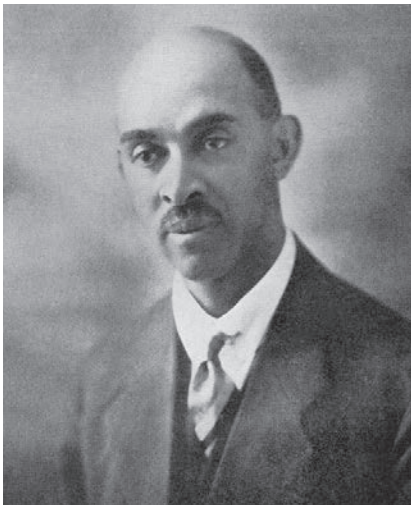
This analysis applies equally to women of the AUBA. For example, a review of AUBA minutes between 1881 and 1916 reveals the substantial work of women and their importance to the churches. Frequent references to the deaths of older church "sisters," and notations regarding their contributions to their churches, demonstrate the important work women performed for the churches.[27]

Women did not attend AUBA conventions as delegates until 1891. Once they began attending, their presence was not a silent one: they spoke about issues such as temperance, mission work, and education. They were involved in the various Sunday school committees wherein the women not only gave of their time and their personal resources, but also made financial contributions.

Within the AUBA, there were competing visons as to what was required to support African Nova Scotian children in need. Some wanted a facility to teach skills to make the children productive members of the community. The African Nova Scotian community placed significant interest in self-reliance and independence and preferred to lift themselves out of dependency. Therefore, many thought the teaching, training, and education provided by a Normal and Industrial school would assist young boys and girls to enter the labour force with a skilled trade or technical knowledge.

Others wanted the same, but were primarily concerned with providing care and nurturing for orphaned or destitute children. While it was true there was a real need for an institution to provide industrial, business, and domestic training for Blacks, it was equally true that an institution was urgently required to place orphans and destitute Black children in suitable shelter.[28] This need was acutely felt following the Halifax Explosion when the Cornwallis Street Baptist Church became a shelter for many of those displaced. Renée Lafferty, in her writing, echoes the struggles of the child welfare system to meet the demands of placing African Nova Scotian children as there was no place for African Nova Scotian orphans.[29]

James R. Johnston died in 1915 and his role as clerk in the AUBA was assigned to J.A.R. Kinney, an African Nova Scotian from Yarmouth. Kinney was a member of the Cornwallis Street Baptist Church and a strong supporter of actions to "uplift" African Nova Scotians. By March 1916, he had become a Trustee of the Cornwallis Street Baptist Church. Kinney was described as being "adept at presenting the home's needs to both black and white communities in ways that addressed their specific concerns and interests".[30] Kinney emerged as a major advocate for an educational institution for Black children, as initially proposed and championed by James R. Johnston. Kinney and Puryear were to build alliances with the white establishment and garner support for the creation of a training institute.



NSA Library, VF 159–26 (1929 Home brochure)

J.A.R. Kinney

C. Incorporation of the Home

The *Act to Incorporate the Nova Scotia Home for Colored Children* (the "Home") was introduced as a private member's bill in the Nova Scotia House of Assembly in April 1915.[31] The private bill set out the objectives and corporate structure of the Home as a legal entity, including a list of seven (7) inaugural Trustees, including Kinney, Puryear, Ernest Blois (Superintendent of Neglected and Delinquent Children), and several prominent white leaders. The bill passed on April 23, 1915. This legislative achievement was recorded in debates and proceedings of the House of Assembly, and is reproduced below:

Excerpts from
DEBATES AND PROCEEDINGS[32]

Wednesday, April 14th, 1915

BILLS – INTRODUCTION

Mr. LOGAN introduced a Bill to Incorporate the Nova Scotia Home for Colored Children.

Friday, April 16th, 1915

BILLS – SECOND READINGS

MR. FINN moved the second reading of the Bill to incorporate the Banook Canoe Club, and the Bill to incorporate the Nova Scotia Home for Colored Children.

The Bills were read a second time and referred to the Committee on Private and Local Bills.

Saturday, April 17th, 1915

REPORTS

MR. WICKWIRE reported favorably without amendment on the Bill to incorporate the Nova Scotia Home for Colored Children.

Monday, April 19th , 1915

BILLS – THIRD READING

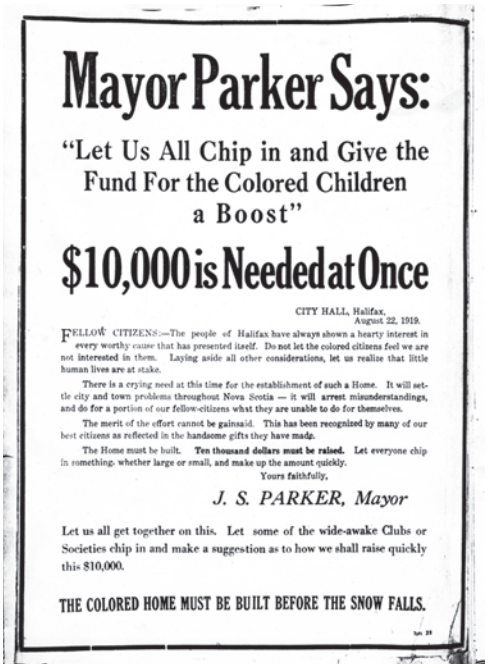
The following Bills were read a third time, finally passed, and sent to the Legislative Council for concurrence:

the Bill to incorporate the Nova Scotia Home for Colored Children;

By early 1917, discussions continued regarding the provision of care for neglected and destitute African Nova Scotian children. In correspondence about efforts to place African Nova Scotian children, Superintendent Ernest Blois acknowledged, "it is very rarely that a suitable foster home is found for a colored child," referring to the "need to put together a definite scheme for their care." He also went on to outline the "need for Home for colored children" and that "the colored people themselves are not in a financial position to establish such an institution, and there is no possibility of establishing and maintaining such an institution entirely on charity." [33]

The inaugural Trustees of the Home secured a temporary building for the Home on Quinpool Road in Halifax (then the North End), and hired a matron from the United States to care for a small number of children destined for the temporary location.[34] Funding appeals at the time positioned the appeal to "help" coloured children, not by creating spaces in existing orphanages, but through financial assistance to create their own institution. However, in December 1917, the Halifax Explosion caused significant damage and loss of life throughout the city. The explosion damaged the temporary building and destroyed a significant portion of Halifax's North End, where a high concentration of African Nova Scotians had lived. The loss of parents and guardians increased the immediate need for care of orphaned and destitute African Nova Scotian children, rendering the damaged temporary location inadequate to meet the increased need.[35] Therefore, another more suitable and permanent location was sought.

The Cornwallis Street Baptist Church provided temporary housing for African Nova Scotians after the explosion. The Halifax Relief Commission was formed and struck a Children's Committee to determine how the needs of children of the Halifax Explosion would be addressed. The Children's Committee fell under the jurisdiction of Superintendent Blois as chairman, and he was joined by Judge Wallace, R.H. Murray of the Society for Prevention of Cruelty, and also one of the Trustees of the Home. The Children's Committee sought immediate placement for orphaned children, but many of these early placements were noted as being disappointing. The committee experienced particular difficulty in securing arrangements for "colored orphans."[36]



Mayor Parker Says:

"Let Us All Chip in and Give the Fund For the Colored Children a Boost"

$10,000 is Needed at Once

CITY HALL, Halifax,
August 22, 1919.

FELLOW CITIZENS:—The people of Halifax have always shown a hearty interest in every worthy cause that has presented itself. Do not let the colored citizens feel we are not interested in them. Laying aside all other considerations, let us realize that little human lives are at stake.

There is a crying need at this time for the establishment of such a Home. It will settle city and town problems throughout Nova Scotia — it will arrest misunderstandings, and do for a portion of our fellow-citizens what they are unable to do for themselves.

The merit of the effort cannot be gainsaid. This has been recognized by many of our best citizens as reflected in the handsome gifts they have made.

The Home must be built. **Ten thousand dollars must be raised.** Let everyone chip in something, whether large or small, and make up the amount quickly.

Yours faithfully,

J. S. PARKER, Mayor

Let us all get together on this. Let some of the wide-awake Clubs or Societies chip in and make a suggestion as to how we shall raise quickly this $10,000.

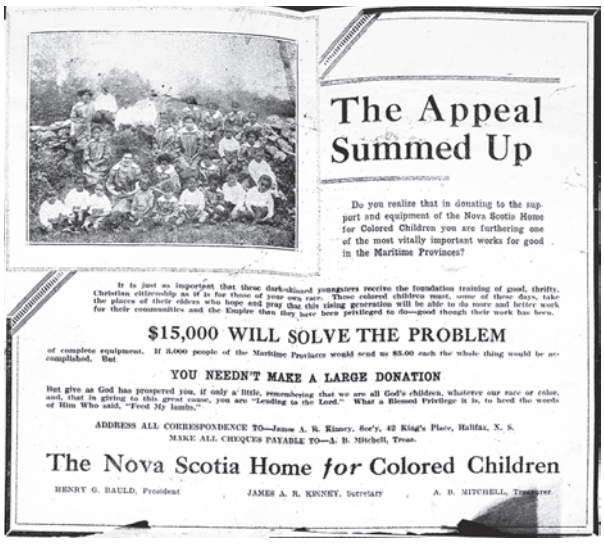
THE COLORED HOME MUST BE BUILT BEFORE THE SNOW FALLS.

NSA Library, NSHCC Fonds, 201901538

Appeal for funds example

The heightened needs of African Nova Scotian children following the Halifax Explosion appears to have cemented the decision to establish the Home as an orphanage with a school, rather than an institution with a trades and training orientation. Furthermore, the extent of poverty experienced by African Nova Scotians leading up to and following the Halifax Explosion diminished the possibility of reviving the earlier vision of a Tuskegee-like Normal and Industrial School.

Following the passage of the *Act to Incorporate the Nova Scotia Home for Colored Children*, it became necessary to raise as much money as possible from both the African Nova Scotian community and the white community. The AUBA, including its Ladies Auxiliary, was involved in many fundraising efforts.[37] Donations and fundraising campaigns were led by trustees Kinney and Henry G. Bauld, who was a prominent white businessman. The AUBA and its membership also generated investments from the broader white community.



The Appeal Summed Up

Do you realize that in donating to the support and equipment of the Nova Scotia Home for Colored Children you are furthering one of the most vitally important works for good in the Maritime Provinces?

It is just as important that these dark-skinned youngsters receive the foundation training of good, thrifty, Christian citizenship as it is for those of your own race. These colored children must, some of these days, take the places of their elders who hope and pray that this rising generation will be able to do more and better work for their communities and the Empire than they have been privileged to do—good though their work has been.

$15,000 WILL SOLVE THE PROBLEM

of complete equipment. If 5,000 people of the Maritime Provinces would send us $3.00 each the whole thing would be accomplished. But

YOU NEEDN'T MAKE A LARGE DONATION

But give as God has prospered you, if only a little, remembering that we are all God's children, whatever our race or color, and, that in giving to this great cause, you are "Leading to the Lord." What a Blessed Privilege it is, to heed the words of Him Who said, "Feed My lambs."

ADDRESS ALL CORRESPONDENCE TO—James A. R. Kinney, Sec'y, 42 King's Place, Halifax, N. S.
MAKE ALL CHEQUES PAYABLE TO—A. B. Mitchell, Treas.

The Nova Scotia Home *for* Colored Children

HENRY G. BAULD, President JAMES A. R. KINNEY, Secretary A. B. MITCHELL, Treasurer

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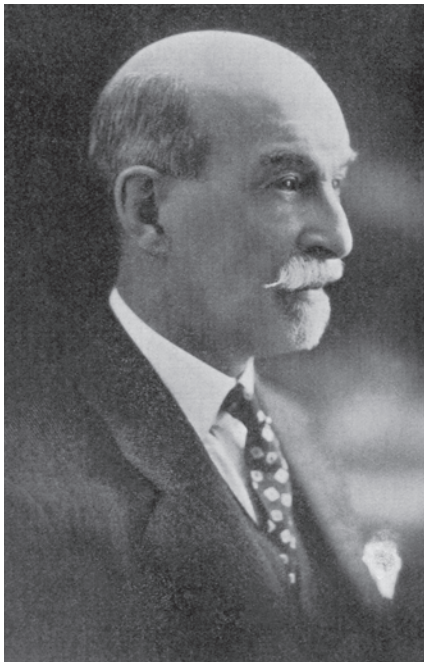
Appeal for funds example

By late 1918, potential locations were identified for the Home. Blois inspected a farm near the Preston communities, and, despite his initial rejection of the site (due

to its isolated location from other Black communities in the province, poor agricultural potential, and building cost considerations), he nevertheless endorsed a second farm site in a neighbouring community for Government approval in 1919.[38] The property location near the Preston communities was purchased by the Provincial Government[39] and later conveyed to the Trustees of the Home.[40] During this period there were white families living in the Westphal area near the purchased land that did not want to see a Home for African Nova Scotian children established in their neighbourhood. In 1919, there were various articles appearing in local papers objecting to the construction of the Home in their community.[41]



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Henry G. Bauld

An official opening of the Home was held on June 6, 1921, and Lieutenant-Governor Grant and other Provincial Government and civic officials were in attendance. Newspaper articles summarizing the event stated that approximately 1,500 people from communities across the province attended, along with 500 white people. The official opening was celebratory in nature, including a procession march that extended three-quarters of a mile with a marshal, the Salvation Army band, and the Fife and Drum band from the Halifax Industrial School. A stage was erected in the orchard for use by the various choirs, speakers, and band. The greatest part of the program involving representatives of the "coloured population" was faith-based.[42]

THE SUNDAY LEADER

GRAVURE SECTION

D YEAR. HALIFAX, SUNDAY, JULY 10, 1921 10c PER COPY.

Panorama View of Nova Scotians at the Formal Opening of the Colored Orphans Home Near Preston

Mrs. Martha G. Harris, Matron, and Miss Agatha Murphy of the Staff of the Colored Orphans' Home Recently Opened Near Preston

The Girl Guides of Zion African Methodist Episcopal Church who, with the Boy Scouts, Acted as a Guard of Honor at the Formal Opening of the Colored Orphans' Home

The Nova Scotia Home for Colored Orphans, Near Preston, Halifax County, Which Was Formally Opened June 6th by His Honor Lieut.-Governor Grant of Nova Scotia, the First Institution of its Kind in All Canada

Procession of Preston Citizens Arriving at the Opening of the Colored Orphans' Home, Headed by the Salvation Army Band and Fife and Drum Band of the Industrial School

The Boy Scouts of the Zion African Methodist Episcopal Church Who, With the Girl Guides, Acted as Guard of Honor at the Formal Opening of the Colored Orphans' Home Near Preston

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The Sunday Leader, July 10, 1921

Structuring Relations: Significant Contexts and Influences for the Operations of the Home

A. Overview of Institutions of child-caring system in Nova Scotia

The Nova Scotia Home for Colored Children (the Home) was established in the context of the structures and systems related to the care of vulnerable children in the province. It is helpful to situate the Home within the landscape of care to understand the various roles, relationships and influence, and impacts on the operations of the Home. The history of the Home is best understood against the backdrop of the fundamental relationships that structured its establishment, development, and operations. The following sections provide an overview of the key elements and institutions of the child-caring system in Nova Scotia and considers how they contributed to the structuring relationships related to the Home. The most significant relationships whose influence is seen throughout the history of the Home include relationships with Government, the children's aid societies, the AUBA and the African Nova Scotian community, and within the Home with respect to governance. Each will be considered briefly below in order to provide important context and insights to understand the operational history that follows.

First, it is important to have a clear understanding of the general landscape of care in which the Home operated. Over the course of the Home's nearly 100-year history, there were significant changes in this landscape, perhaps most significantly related to the increasing role of the State in child welfare since the founding of the Home. We have not sought to map these changes in any comprehensive way. However, we have noted significant shifts as they influenced the operations of the Home. It is also important to be clear about the nature of child caring, protection, and welfare at the time the Home was established since it had a profound and enduring impact on the structure and operations of the Home. Thus, it is important to have a sense of some of the key institutional/organizational elements of child caring including the roles of:

i) private child-caring institutions

ii) children's aid societies

iii) other institutions

I. Private Child-Caring Institutions

Private child-caring institutions played a significant role in the provision of child care in the 19th century. These institutions included industrial schools, orphanages, and infants' homes. Such institutions were generally considered temporary homes and usually housed children in residential-type homes or institutions. Private facilities of this type in the province included the Halifax Protestant Orphans' Home (1857), St. Joseph's Orphanage (1868), and the Home of the Guardian Angel (1888). These were private child-caring institutions — at arm's length from government — and mainly operated by private and often religious organizations.

Through most of the 19th century there was no provincial legislation designed specifically for the protections and reformation of children. The first piece of provincial legislation providing for the protection of children was the result of an 1880 amendment to the *Act to Incorporate the Nova Scotia Society for the Prevention of Cruelty to Animals* ("Society").[43] The Society was created in 1877 and had a membership of largely wealthy Protestant men who were highly influenced by social reform work being undertaking in Britain at the time.[44] Society members were vocal proponents of the temperance movement and included prominent members such as the Mayor of Halifax, judges, and businessmen in the city.[45] Through its work, the Society would also encounter and observe children in need of protection. The 1880 amendment allowed the Society to bring a complaint before any court or magistrate who had jurisdiction for laws pertaining to children under the age of 16,[46] and, by 1882, the Society was given official legal authority to bring cases of wrongs to children by parents, guardians, and proprietors to court. Fines collected under the act were to be used to fund the activities of the Society.[47]

In 1906, the Society supported specific legislation for the protection of children entitled *An Act for the Protection and Reformation of Neglected Children*[48] (*Children's Protection Act*, 1906). The act was the first comprehensive legislation in Nova Scotia specifically designed to address the protection and reformation of children. In 1912, the legislation was amended and consolidated with the federal *Juvenile Delinquents Act*[49] to become *An Act to Consolidate and Amend the Law Relating to Juvenile Offenders and the Protection of Children*[50] (*Children's Protection Act*, 1912).

Private child-caring institutions were authorized under the *Children's Protection Act* of 1906 and 1912. The legislation set the legal parameters for these institutions, however, they were administered and managed by private Boards or management committees, and operated independently of children's aid societies and Provincial authorities. These institutions were, therefore, authorized by legislation, but were not governed by the Province.

Private child-caring institutions were often charitable entities responsible to provide funding to support their operations. These institutions relied on multiple sources of funding support. When they boarded neglected and dependent children pursuant to the *Children's Protection Act* ("wards"), they received a weekly sum (*per diem*) from the Province and from municipalities towards the costs associated with maintaining the child in a residential facility. Such institutions would also appeal periodically to Provincial and Municipal Governments for modest discretionary grants. These grants were not guaranteed, and institutions would often apply for them annually to offset their costs of operations. Ultimately, though, private childcaring institutions were responsible for raising their own funds, which they did mainly through charitable campaigns and philanthropic donations.

Weekly sum = per diems

Early child protection legislation referred to government maintenance payments for wards as "weekly sums". The maintenance payments are currently referred to as per diem payments.

The Province had legislated responsibility for oversight of these institutions under the *Children's Protection Act* and exercised through the Office of the Superintendent of Neglected and Delinquent Children. To discharge this responsibility, the superintendent was mandated to visit, inspect, and report on these institutions regularly. Private child-caring institutions were required to maintain records of all admissions and discharges. The *Children's Protection Act* also required all children between the ages of 5 and 14 years admitted to an institution to attend school regularly, and children over the age of 14 years to learn a useful trade or occupation. Institutions were also required to provide adequate clothing, food, and medical care and treatment for children placed in their care.

II. Children's Aid Societies

The first children's aid society (CAS) in Nova Scotia was established in Halifax in 1906.[51] CASs were private entities incorporated and authorized by statute but also operated independently of Government. Their statutory purpose was to protect children from cruelty and to protect neglected, abandoned, or orphaned children by providing them with suitable homes in reformatory institutions or private families and to guard over their interests.[52]

However, it was not until the *Children's Protection Act* of 1912 that these societies expanded operationally throughout the province. The general criteria for establishing a CAS in Nova Scotia, as set out in the *Children's Protection Act* of 1912, was as follows:

> Any number of persons, not less than ten, may form themselves into a Children's Aid Society for the purpose of this act.
>
> Upon filing with the Provincial Secretary the constitution and by-laws of the proposed society, signed by not less than ten persons, the Governor-in-Council may approve the constitution and by-laws of such society, and thereupon such society shall be a body corporate under the name of "The Children's Aid Society of _____, and may be approved by the Governor-in-Council for the purpose of this act.[53]

Once a CAS was established, the Provincial Office of the Superintendent of Neglected and Delinquent Children was also statutorily required to advise, assist, and instruct CASs in the performance of their duties.[54]

For most of their history, CASs did not operate residential homes or facilities, but were organizations located in municipalities, cities, and towns throughout the province. They were essentially private entities authorized by statute to exercise State powers to apprehend children, find foster homes for them, and place children in various institutional settings, including the NSHCC.[55] In localities without a CAS, the superintendent was empowered to act as a CAS with respect to children in that area.[56]

Like other private and charitable entities, CASs received their funding from several sources, including Government contributions and charitable and philanthropic donations. The *Children's Protection Act* prescribed that the municipality from which a child was apprehended was responsible for all expenses incurred in the child's apprehension, in addition to a weekly sum/*per diem* payable to the child-caring institution where the child was placed.[57]

CASs operated in co-operation with the superintendent, but were managed independently by their own private Board of Management. CASs would remain private and charitable entities until the early 2000s, when they merged with the Department of Community Services due, in part, to changes in the child welfare delivery model.[58]

III. Other Institutions

Other institutions related to the care of children and youth included reformatories and industrial schools, many of which started as private institutions that provided for the custody and detention of juvenile offenders.[59] However, this was not always the case. Throughout most of the 1800s, juveniles convicted of criminal offences often found themselves committed to common jails and prisons with adult criminal populations. Two important statutes enacted in Canada in 1857 addressed the treatment of children convicted of criminal offences:[60] the *Act Respecting the Trial and Punishment of Juvenile Offenders* granted courts the discretion to commit juvenile offenders under the age of 16 years and convicted of minor offenses to "houses of correction," as opposed to common jails,[61] and the *Act for Establishing Prisons for Young Offenders* provided for the construction of "reformatory prisons" [in Upper and Lower Canada] dedicated to the detention and correction of juvenile offenders and where they would receive such instruction as was conducive to their reformation.[62] It was not long before other jurisdictions, including Nova Scotia, created similar institutions.

The Halifax Protestant Industrial School was one such reformatory institution. The school was established in Halifax in 1864, and, although originally designed to provide a home and education for homeless and neglected Protestant youth, the courts soon began sending convicted juveniles to the school for reformation and rehabilitation.[63] Another such reformatory institution was St. Patrick's Home for Boys, which was established in Halifax in 1885 to address the same needs as the Halifax Protestant Industrial School, but for convicted juveniles affiliated with the Catholic faith.[64]

As noted above, the *Children's Protection Act*, 1912, incorporated the federal *Juvenile Delinquents Act* and tailored it to Nova Scotia's particular situation. The act also created a juvenile court for Halifax, and established the positions of Superintendent and Chief Probation Officer for the Province.[65] Not surprisingly, neglected children often found themselves admitted to these reformatory institutions by the superintendent or CAS when they reached an age and character requiring such institutional care.

Management of the Halifax Protestant Industrial School was allocated to the Province in the late 1940s, and the institution was eventually relocated to Shelburne and renamed the Nova Scotia School for Boys. Shortly thereafter, St. Patrick's Home for Boys also closed and its residents were relocated to the Nova Scotia School for Boys. The Department of Public Welfare would become responsible for its funding, operations, and oversight, and it was no longer a private institution.

IV. The Home as a Private Child-Caring Institution

As discussed in the previous Origins section, the Home was incorporated in legislation by a private member's bill in 1915.[66] It is important to understand that private member's bills were not a reflection of Government priorities and commitments. They were a vehicle for private legal ordering and, as such, dealt with matters that only affected private individuals or persons of a particular locality.[67] They were, therefore, significantly different from Government or public bills that typically reflect Government policy and have general application throughout the province. Accordingly, the fact that the Home was created by statute does not mean it was a Government entity. It was a *private* child-caring institution incorporated by individuals to serve the specific objectives set out in its founding legislation. The objectives set out in the Home's incorporating legislation are reproduced below:

> The said corporation may purchase, take and hold real and personal estate and may sell, convey, lease, mortgage or otherwise dispose of the same, and may invest any money that may come into their hands for the use and benefit of said corporation, as may be deemed advantageous to the interests of the said corporation for the purpose of securing and establishing lands and buildings for the care, education and proper training of members of the Afro-American race.
>
> The said corporation is hereby empowered to act as a Children's Aid Society for matters affecting the children of the colored race, and to receive and keep same under their care pursuant to the provisions of the "Children's Protection Act, 1912".[68]

Children's Protection Act, 1912

22. The municipality, city or town within which any child apprehended under the provisions of this Act has settlement, as defined in the "Poor Relief Act," shall be liable for all expenses incurred in the apprehension of such child, and shall pay for every such child placed in a temporary home or shelter, orphan asylum, infant's home, industrial school, reformatory, house of industry, boys' or girls' home or other children's home, under the provisions of this Act, a sum not exceeding two dollars weekly so long as such child is in such place, which various sums shall be paid such institution, to the Children's Aid Society or the legal guardian of such child, and may be recovered by the Board of management of such institution or by such Children's Aid Society,

As referenced above, private child-caring institutions were well established in Nova Scotia by 1915 and operated mainly along religious lines. The incorporation of the Home — an institution designed exclusively for the care, education, and training of Black children[69] — was then a new phenomenon. While the Home had strong support from the AUBA, it was not delineated along faith lines but along racial lines. Despite its legal incorporation in 1915, it would not open its residential facility until 1921. The Home opened as a private institution for the care, education, and training of Black children. The fact that the Home was a private child-caring institution and was established with an explicit mandate and mission to provide care and support self-reliance and empowerment for the "Afro-American race" significantly shaped the nature of its relationships with Government, with other private child-caring institutions, and with the African Nova Scotian community.

B. An Examination and Review of Structuring Relationships

In order to gain a deeper understanding of the Home's operations over its history, a closer examination of the key set of structuring relationships that shaped the institution over time is required. Most notably, a consideration of the impact of the relationships the Home had with Government, children's aid societies, the AUBA and the broader Black communities, and its own internal governance is important.

I. The Home and Government

The Home's relationship with Government was reflected in and established through interrelated dimensions: legislative, regulatory oversight, and funding.

Legislation and Regulatory Oversight

As previously outlined, the Home's operations were governed (as with other private child-caring institutions) through overarching provincial legislation: the *Children's Protection Act* (and subsequent statutory regimes). This piece of legislation was central to the nature of the Home's relationships with Provincial and Municipal Governments and multiple children's aid societies. As the overarching child welfare legislation within the province, it was both influenced and shaped by the emerging landscape of child welfare more broadly within the province, which impacted the operations of the Home in direct and indirect ways.

Provincial regulatory oversight of the Home was prescribed by the *Children's Protection Act* and was operationalized through the Office of the Superintendent of Neglected and Delinquent Children, and, in later years, the Director of Child Welfare. As noted previously, the Office of Superintendent was created in 1912 by amendments to the *Children's Protection Act*.[70] The superintendent was appointed by Order-in-Council and became a salaried employee of the Provincial Government.[71] The statutory duties and responsibilities of the superintendent were set out as follows:

(a) to encourage and assist in the organization and establishment, in the various parts of the province, of Children's Aid Societies, for the protection of children from cruelty, and for the due care of neglected and dependent children in temporary homes or shelters, and the placing of such children in properly selected foster homes, and to have and exercise by virtue of his office the powers conferred upon Children's Aid Societies, with power from time to time to appoint any persons or committees to act for him as occasion may require;

(b) to visit and inspect reformatories, industrial schools, detention and temporary homes or shelters, charitable institutions and foster homes, as often as occasion may require, and not less often than may be directed by Order-in-Council or departmental regulations in that behalf;

(c) when specifically directed, to visit any home or place where any child has been adopted or is boarded out, or is placed pursuant to the provisions of any Dominion or Provincial Act or by virtue of any agreement;

(d) to advise Children's Aid Societies and committees thereof, and to assist and instruct them, whenever necessary, in the performance of their duties;

(e) to ascertain and keep a record of all available and suitable private homes in the province desirous of adopting and receiving children, and to keep a proper record of all children committed to and adopted out by the various institutions mentioned in sub-section (b) hereof, and of all children placed in or committed to institutions or foster homes by Children's Aid Societies, or pursuant to the provisions of any Act, and of all particulars connected with each case;

(f) to act as and perform the duties of chief probation officer for juvenile delinquents for the Province of Nova Scotia, pursuant to the provisions of the Juvenile Delinquents Act, 108, (Canada), and to instruct any other probation officers as to the manner in which their duties are to be performed;

(g) to prepare an annual report of the work of his office and submit such report to the Legislature at the next ensuing session, and, from time to time, issue and distribute such reports, publications, pamphlets, circulars and other literature as the Attorney General deems expedient;

(h) to perform such other duties as may be prescribed by the Governor-in-Council.[72]

The first superintendent in Nova Scotia was Ernest H. Blois, a teacher who previously served as superintendent of the Halifax Protestant Industrial School. Blois was appointed in 1912, serving as the Province's Superintendent, Chief Probation Officer, and later as the Province's Director of Child Welfare. Historical records show that Blois served simultaneously as the provincial Superintendent, Chief Probation Officer for the Province,[73] and, in 1915, as an inaugural Trustee of the Home.[74]

As part of the oversight accountability function, the superintendent published annual reports describing the work of the office. A description of the Home first appeared in the superintendent's annual report in 1920, with reference to its planned opening.[75] The 1921 annual report represented the first time the Home was listed as a child-caring institution, and its first appearance in the Provincial expenditures.[76] As noted above, the superintendent was responsible for visiting, inspecting, and reporting on child-caring institutions pursuant to the *Children's Protection Act*. A more formalized regulatory framework would not be initiated until the 1940s, and, until this time, the operation of child-caring facilities was managed by private entities, as was the case for the Home.

Additional developments in child welfare legislation continued in Nova Scotia through the 1950s and 1960s. These developments are reflected in legislative amendments as follows:

- *An Act to Amend and Consolidate Chapter 166 of the Revised Statutes, 1923, The Children's Protection Act*, SNS, 1950, c 2 (re-named Child Welfare Act, 1950); [77]
- *An Act to Amend Chapter 2 of the Acts of 1950, the Child Welfare Act*, SNS 1954, c. 52[78]
- *An Act to Amend Chapter 31 of the Revised Statutes, 1967, the Child Welfare Act*, SNS, 1968, c. 18[79]

Throughout this period of development, we saw increased support for maintaining children in their homes, and a revitalization of CASs to carry out the work of child protection.[80]

These and other changes would see the Province venture further into the regulation of child welfare and child-caring institutions. For instance, significant amendments to the *Children's Protection Act* in 1950 included a change in its short title to the *Child Welfare Act*, and the Department of Child Welfare was incorporated under the Department of Public Welfare.[81] Furthermore, an appointed Director of Child Welfare replaced and assumed all the responsibilities of the Superintendent, including the authority to act as a CAS.[82]

There were also substantive changes with respect to the standards applicable to child-caring institutions and foster homes. For instance, the *Child Welfare Act*, 1950, granted the Governor-in-Council authority to make regulations respecting, among other things:

- prescribing the standards of personnel, buildings, equipment and service to be maintained by child caring institutions, foster homes and other places and institutions required to be licensed under or to which this Act applies;
- respecting the records to be kept and returns to be made by persons conducting institutions to which this Act applies.[83]

The *Child Welfare Act*, 1950, also required the director to inspect child-caring institutions and to assist and encourage improvement in their accommodations, equipment, staff, and policies, and the nutrition, recreation, and medical and general care for children placed in their care.[84] With respect to the Home, the *Child Welfare Act*, 1950, established greater regulatory oversight by the Province, which coincided with the Province's involvement in general welfare programming and greater Government funding support. For instance, in order to qualify for Government grants, child-caring institutions were required to meet and maintain the standards prescribed by the regulations.[85] The Government's incursions into child welfare would persist and increase over the next several decades.

Further changes in child welfare occurred with the 1968 amendments, which removed the category of "neglected" child and introduced the concept of "child in need of protection."[86] Importantly, the term "neglected" had been the definitive factor for interventions since the *Child Protection Act* of 1906.[87] However, the 1968 amendments signalled a shift away from fault-based intervention standards towards a more objective evaluation of parental conduct and the best interest of the child. During this new era in "child protection," State actors like CASs were required to show that a child was "in need of protection" and that the need arose out of the conduct of the parent.[88]

In 1976, the *Child Welfare Act* and *Adoption Act*, among others, were amalgamated into the *Children's Services Act*, 1976.[89] The new *Children's Services Act* maintained the definition of "child in need of protection," but added procedural safeguards and due process for parents, and demanded more from the courts in terms of decision making.[90] The *Children's Services Act* signalled a new direction in temporary care towards a more deliberate and reasoned approach concerned with the "best interest of the child."

In 1990, the *Children's and Family Services Act*[91] was introduced and replaced the Children's Services Act. The new Children's and Family Services Act represented a further thrust towards maintaining family autonomy and integrity, and its "least intrusive intervention" approach to child protection.[92]

Funding

Another significant element in the relationship between Government and the Home was funding. As previously outlined, the *Children's Protection Act* prescribed that the municipality from which a child was apprehended as a "ward" was liable for all expenses incurred in the apprehension, in

addition to a weekly sum payable to the child-caring institution where the child was placed.[93] For example, when a Black child apprehended by a CAS was placed in the Home, the municipality in which the child was apprehended was liable to the CAS for the costs of apprehension, and to the Home for the municipal weekly sum prescribed by statute. In its simplest form, the *Children's Protection Act* ultimately intended for the municipal weekly sums to make their way to the institutions providing care. Similarly, when a "ward" was placed in the Home, the Provincial treasury was also liable to the Home for a weekly sum prescribed by statute for the maintenance of the child. In the above-noted scenario, the Municipal and Provincial weekly sums should have transferred to the Home. However, this administrative process did not always work well for the Home. Unlike other institutions that drew from more local populations, the Home found itself having to secure maintenance payments from multiple CASs, municipalities, cities, and towns from across the entire province. This posed significant administrative complexities and challenges. These complexities and challenges were even more pronounced when children were apprehended extra-provincially and placed in the Home (such as from New Brunswick).

In terms of the Home's regular funding (e.g. 1923), the Provincial treasury was required to pay a weekly sum amounting to two dollars ($2.00) for the maintenance of each child placed pursuant to Provincial legislation.[94] As indicated in the chart below, this rate would see only modest increases over the decades. Municipalities, cities, and towns were also required to pay a weekly amount of three dollars ($3.00) for each child placed in the Home pursuant to the same legislation. The municipal portion saw even smaller increases over this time period.

Weekly sums (*per diem*) for "wards" placed pursuant to Provincial legislation for a given year	1917	1923	1930	1945	1954	1967
Municipal/CAS	$2.50	$3.00	$3.00	$3.00	$6.00	$6.00
Provincial Treasury	$1.00	$2.00	$2.00	$2.00	$4.00	$11.50
Total	**$3.50**	**$5.00**	**$5.00**	**$5.00**	**$10.00**	**$17.50**

The Home periodically sought additional funding from the Province and municipalities in the form of discretionary grants. Discretionary grants, by their nature, were not guaranteed and the Home had to appeal anew each time it sought additional funding. Ultimately, as a private child-caring institution, the Home was responsible for raising its own funding through charitable campaigns and philanthropic donations.

This picture of the Home's financial relationship with the Provincial Government disrupts some common assumptions about the Home. Many assume the Home was a Provincial Government entity and that its financial challenges throughout the years were the result of chronic underfunding. Further, the case is also commonly made out that this funding was lower than that provided other "white" child-caring institutions. Our review of the historical records

does not substantiate this assumption. In many ways, the Home shared similarities with other private child-caring institutions: namely, all were reliant upon a combination of public and private sources of funding. The Government funding provided to all of these private child-caring institutions was, thus, similarly inadequate to support operations owing to the private nature of the enterprise of child caring at the time. Unlike the Home, however, the other private child-caring institutions were directly religious- and faith-based institutions supported by substantial endowments, bequests, subscribers, and an established administrative and institutional structure from which to draw support and resources. Also, many of these private religious- and faith-based institutions ordinarily received children from communities and localities proximate to their child-caring institutions. In contrast, the Home received children from across the province, and sometimes beyond, which complicated the means by which to collect the statutorily prescribed weekly maintenance sums.

The Home's financial position was further exasperated by another distinguishing feature of its operations: it accepted children who were wards of the State as well as children who were not and who came to the Home through private placements (non-wards) for which no Municipal or Provincial maintenance payments were forthcoming. Meeting this need for communities by providing care for children who remained without regularized funding was a recurrent issue within the relationship of the Home with the Provincial Government.

However, as discussed in the following Operations section, despite the many concerns raised by the Provincial Government regarding the Home's finances and its management of non-wards, the Province continued to provide additional financial resources to the Home throughout its history. In fact, early records of the superintendent reflect that the Home had a higher percentage of its operating funding provided by the Province.[95] Additional financial resources following on the original purchase and donation of the land included substantial capital contributions towards the building of the Home, the renovation and construction of an addition to the original building (Cumming Annex).[96]

II. The Home and Children's Aid Societies

The operations of the Home were also shaped by its relationship with CASs throughout the province. Like the Home, CASs were created as private and charitable child-caring entities that depended on charitable donations and Government contributions to operate. CASs formed an integral part of the child-caring apparatus in Nova Scotia, but often struggled financially to fulfill their roles.

As referenced above, starting in 1912, CASs began to flourish in Nova Scotia. Children's aid societies were established in Kings County (1912), Cape Breton, Cumberland, Hants, Pictou, and Yarmouth Counties (1913), the counties of Annapolis and Colchester (1914), the City of Halifax (1920), and the counties of Queens (1925), Shelburne (1930), and Lunenburg (1931).[97] In regions and localities that did not have an established CAS, the superintendent was authorized to act and to exercise the powers of a CAS.[98]

The growth of CASs across the province may have been an important resource in addressing local child protection needs, however, their structure and operations would prove challenging for the Home. It was significantly difficult for the Home to recover maintenance payments from multiple, and sometimes distant, CASs. As referenced above, the *Children's Protection Act* made municipalities liable for weekly sums for children placed in the Home pursuant to Provincial legislation. However, the legislation did not set out the process by which an institution was to ensure such funding. This presented a significant challenge for the Home, given its unique position serving a provincial population. Where it might have been possible to negotiate issues with a single and local society, it was significantly more difficult to recover weekly sums directly from distant municipalities and CASs, and to do so efficiently across multiple societies all at once. Tracking and pursuing such funding required substantial administrative skill and capacity that the Home lacked resources to support. Recall the operative language of the *Children's Protection Act* stated:

> … which various sums shall be paid such institution, to the Children's Aid Society or the legal guardian of such child, and may be recovered by the Board of management of such institution or by such Children's Aid Society, as the case may be, in an action at law for the use of the institution in which the said child was placed by the said society.[99]

Historical records show the Home often had difficulty securing timely payment or recovering weekly sums at all from municipalities and CASs. This significantly impacted the stability and level of the Home's finances.

The Home's mandate to accept children from across the province also presented significant challenges with respect to the legal obligations of CASs and the resultant standards of care for residents. In particular, CASs that placed children in the Home remained their legal guardian responsible for ensuring the child received adequate care, education, or teaching for some useful occupation. However, many CASs that placed children in the Home were located in distant regions of the province, making it difficult to discharge their supervisory obligations as legal guardians. Moreover, given the tenuous financial position of many CASs, it became financially impossible for them to attend personally and regularly at the Home to discharge their legal responsibility as legal guardians to ensure the children received proper treatment, an education, or teaching for some useful occupation.[100] In many instances, the CASs would abdicate their legal responsibilities and never return once they placed a child in the Home. Throughout the history of the Home, there were several references to the Home as a "dumping ground" for placements. Geographic distance alone seems an insufficient explanation for this occurrence as the Halifax Children's Aid Society was frequently referenced in this regard. Historical records show the Home received children from other provinces, including New Brunswick. Many of

these issues were even more pronounced for referral agencies located out of province. Again, the Home faced challenges with respect to care planning for children due to these geographical and jurisdictional issues.

III. The Home, the AUBA, and Broader Black Communities

As referenced in the prior Origins section, the AUBA was instrumental in the genesis of the Home and continued to play an influential, albeit informal, role throughout its operations. The AUBA was a Christian organization that willingly co-operated with philanthropic members of the broader white society to further the ideals of the Home. The Home's Constitution and By-Laws did not designate the AUBA representation among the Trustees of the Home, however, the AUBA's endorsement for and support of the Home remained evident throughout the Home's history. Although similar in many ways to other child-caring institutions with formalized religious and faith-based ethics to care for vulnerable children, the relationship between the Home and the AUBA had additional layers of complexity that distinguished it from its counterparts. As the cornerstone of many Black communities in Nova Scotia, the AUBA functioned as "an all-purpose organization" whose influence would be felt across a variety of spheres of the Home's operations, including the provision of religious instruction, moral authority, fundraising efforts, a conduit to communities, community leadership, and advocacy on issues affecting the Black community.

It is important to note that the Home's operations provided employment opportunities for members of the proximate Black communities but did not generally have a similar economic relationship with other Black communities throughout the province. However, the Home did receive children from Black communities across the province and beyond. This was the extent of its direct connection into the wider African Nova Scotian communities. For the most part, the Home's relationship with the African Nova Scotian community was mediated through the AUBA, its residents, and annual outreach and appeals. In this sense, the Home was quite insular and disconnected in terms of its operations from the broader African Nova Scotian communities across the province. Given this disconnect, the relationship with the AUBA became even more essential to remain connected to African Nova Scotian communities throughout the province to secure and maintain their ongoing commitment and support for the Home's vision and mission.

The AUBA provided the moral, social, and political foundation from which the vision of the Home was built. Historical records show that the AUBA accepted, in principle, the proposal of an industrial school put forth by James R. Johnston as early as 1908,[101] and, by 1917, the AUBA unanimously provided support for the Home's development as articulated in its incorporating legislation. There were three instrumental AUBA members of the Home's vision and eventual operation: James R. Johnston, Reverend Moses B. Puryear, and James A.R. Kinney. All three were deeply embedded within the AUBA organizational structure. This alliance was particularly strategic on two fronts:

i) the endorsement by the most influential African Nova Scotian organization was critical to the Home's support from many regions of the province to ensure members from any African Nova Scotian community across the province would have access to the services and care provided by the Home. This provincial reach was significant in terms of both the ability of the Home to have broader reach for its private fundraising, which was necessary as a private and charitable child-caring institution, but also, and importantly, in terms of awareness of the Home as a community resource for those families in need of support.

ii) these influential members of the AUBA — particularly Puryear and Kinney — were able to maximize their sphere of influence using the legitimacy of the AUBA organizational structure to further leverage strategic and philanthropic relationships with men of influence within mainstream white society. As an example, James A.R. Kinney was able to create an enduring connection with Ernest Blois, who was a senior Government official, and H.G. Bauld, who was a prominent businessman and politician. All of these connections were significant, representing some of the key figures in the inaugural Board of Trustees of the Home, some remaining prominently connected to the Home for decades. In later years, other prominent members of the AUBA would also serve on the Home Board and advocate with the Government and white establishment on behalf of the Home.

A critical element of the relationship between the Home and the AUBA was financial, and the AUBA committed financial support because it was reflective of their faith in the vision of self-determination and self-reliance for Black residents living within a broader racialized society. There was a clear and explicit desire and commitment to "take care of our own."[102] Prior to the Home's official opening, in 1921, the AUBA and its Ladies Auxiliary members financially committed to the operations of the Home:

> To bring such an institution into being, $1000 at least must be raised yearly by the Association through its Churches and Auxiliaries for the work and the Sisters of ability and energy must link up with and become members of the Ladies Auxiliary of the Home to care for, provide finance and clothing for the little children that will pass through for training and upbringing. We would not be worthy of the race if we neglect our own.[103]

The Ladies Auxiliary's annual commitment of $1,000 to the Home in 1921 would be equivalent to more than $14,000 in 2019.[104] The ongoing financial support provided directly by the AUBA and Ladies Auxiliary, and facilitated through its congregations across the province, was a significant achievement in and of itself. Given the lack of economic resources available in many African Nova Scotian communities, and their relatively small populations, the monies raised were a remarkable achievement and testament to the perceived value of the Home as a community resource and symbol of pride.

Additionally, over the course of its history, the Home welcomed the active involvement of the AUBA and its Ladies Auxiliary in assisting with religious instruction, volunteering time with children, choir singing, domestic instruction for females, and by engaging in some social activities with the residents.

The informal, yet influential, relationship between the AUBA and the Home is also demonstrated through the reporting mechanism set up to keep the AUBA apprised of developments with the Home. Based on available records, the Home provided annual reporting of its operations, accomplishments, and challenges at the AUBA's annual conferences. Such reporting would also serve as a means of connecting and disseminating knowledge to communities across the province. The Home did not provide such regular reporting to any other entity throughout its history, save and except any legislative obligations it had to the Province.

Perhaps the most telling element of the enduring and significant relationship between the Home and the AUBA is evident in the AUBA's participation on the Home's Board of Trustees/Directors. While the AUBA did not have a "designated seat" prescribed through the Home's Constitution, members of the AUBA often held position on the Board throughout its history. In the early years of the Home's operations, this representation was often a minority voice. While not all Black members of the Board were AUBA affiliated, the AUBA members raised concerns over the lack of Black representation on the Board towards the end of the 1960s. By the 1970s, representation on the Board changed significantly and Black representation constituted the majority voice in decision making and authority. This milestone represented an important accomplishment as reflected in the executive's report of the 117th session of the AUBA, which stated:

> For the first time in her long history that Black people are in the "inner circle" of governing the Home. These are our Black children and we must never forget their welfare.[105]

Perhaps the increase in Black representation on the Board was in response to the operational insecurities at the Home during this critical period, including the closing of its farming operations, the closing of the Henry G. Bauld Memorial School, and declining resident numbers due to changes in the de-institutionalization of child welfare in Nova Scotia.

In many ways, this form of advocacy with respect to the vision and governance of the Home was consistent with the influential role the AUBA played generally as the voice and community conscience on issues and concerns of the Black community. In addition to concerns over Board representation, the AUBA would also echo support for the Home's position on issues related to the care of Black children, including fostering of Black children in white homes, declining referrals and enrolment, and concerns over the potential closure of the Home and the resulting loss of land associated with the Home's operation.[106]

The resurgence of the community and the increased presence of the AUBA in the 1970s led to future planning and strategic visioning of the Home to ensure its continuing viability. The AUBA's influential presence was most evident in the amendments to the Home's incorporating legislation in 1978, in which the AUBA was designated as the "first-in-line beneficiary" to any surplus assets should the Home wind up or dissolve.[107] This was the first time such a stipulation was made with respect to the Constitution of the Home. This stipulation was raised once again in the 1990s as the AUBA sought clarification regarding the land resource in the event of the dissolution of the Home.

IV. Internal Home Governance and Relationships

A final and significant relationship shaping the Home's operations was its own internal governance and operating structures. The corporate structure of the Home was created with the passing of the bill on April 23, 1915.[108] There were no regulations that accompanied the Home's legislation. However, what stands out about the incorporation of the Home is the number of leading public figures with significant roles in its establishment, including James R. Johnston, Ernest H. Blois, Henry G. Bauld, and James A.R. Kinney. In fact, after the Home was established, James A.R. Kinney and Henry G. Bauld continued their involvement with the Home for many years and in various executive positions on the Board. Kinney served for several decades as the Home's first Superintendent/Manager and Bauld would serve as the Board President until 1948. Both men exerted significant influence on the governance of the Home that would persist for decades. Upon review, those influences appeared to have a penchant for the enterprise of the Home but very little focus on the care, education, and training of the children in its care.

It is also important to note that the first superintendent and chief probation officer for the Province, Ernest H. Blois, also served as a Trustee of the Home when it incorporated in 1915.[109] This is significant because Blois was responsible for Government oversight of the Home — for visiting, inspecting, and reporting on the Home during his tenure as Superintendent and Director of Child Welfare. The potential conflicts of roles as overseer and governor of the institution received no attention during his tenure. This situation raises the question of the level of accountability Blois exercised as Superintendent and Director of Child Welfare with respect to an institution of which he was a Trustee. It is notable that the subsequent Director of Child Welfare declined his appointment in absentia to the Board, expressing a similar concern with respect to conflict.[110]

In 1924, the Home passed a set of By-Laws for the management of the affairs of the corporation. The first set of By-Laws identified the Home's executive positions and authorized the Trustees to raise and borrow monies for the establishment of the Home.[111]

The Home passed a new set of By-Laws in 1928, setting out the duties and responsibilities of the directors as follows:

> To secure the fulfillment of any contracts or engagements entered into by Home by Mortgage or charge or sale of all or any property of the Home.
>
> To determine the Officers of the Home who shall execute all deeds and mortgages to be given by it, and to authorize such officers to execute said documents.[112]

The corporate structure of the Home, based on the terms of its Constitution and By-Laws as of 1928, were, at best, unclear. For instance, the incorporating legislation identified an inaugural Board of Trustees whose primary objective was "securing and establishing lands and buildings for the care, education and proper training of the members of the Afro-American race." The legislation also prescribed a process by which the Board of Trustees could "make bylaws for the management of the affairs of the said corporation."

However, a review of the incorporating legislation and the By-Laws of 1924 failed to describe with any accuracy how such an institution was to operate. This uncertainty created great confusion for the Home with significant negative impacts on its management and operations after opening in 1921. Absent any management structure, members of the Board of Trustees assumed various roles to facilitate its operations.

For a very long period, the Home was run by a few individuals and without any apparent management or operational structures. Henry G. Bauld served as the Home's first president (1917–1948), and James A.R. Kinney became the Home's first superintendent/manager (staff), while simultaneously serving as a member of the Home's Board of Trustees. Despite being the superintendent/manager of the Home, Kinney did not manage the child-caring operations of the Home. Rather, Kinney settled into his role as primarily responsible for fundraising, marketing, and farm operations. The actual day-to-day child-caring operations of the Home were provided by a matron who was hired specifically for this function and appeared to have been supervised in that role by the superintendent/manager. A lack of clarity in terms of the roles and responsibilities of staff and Board members was a recurrent theme over the Home's history.

Further confusion arose with respect to the management and operation of the Home as Kinney drew a salary as superintendent/manager of the Home while also occupying an executive seat as secretary and treasurer to the Board of Trustees. There were very few clear lines indicating where Kinney's role as the superintendent/manager of the Home began and his role as a member of the Board of Trustees ended. Over the course of its history, the Home seemed to be generally run by only a few influential members of its Board, namely its president and treasurer.

The Home also lacked any comprehensive policies typical of corporations and needed to guide the corporation through its mandate. Furthermore, there was substantial confusion throughout

the years regarding the proper manner in which to manage and operate the Home. For instance, some years there was reference to a Board of Trustees and a Board of Directors, other years there was a Board of Directors and a Board of Management, and still other years there was a combined Board of Directors and Trustees. These and other fundamental governance and structural deficiencies resulted in poor management practices that would prove problematic as the Home came of age. Unfortunately, the adoption of a new set of By-Laws in 1928 did not alleviate the fundamental structural and governance issues that impacted the Home's operations. For a significant portion of the Home's history, there was a disconnect and confusion regarding the roles of staff versus the role of Trustees and Directors. There appeared to be a lack of faith in the governance structure by staff, as was evident in their complaints related to low wages, their Human Rights complaint in the late 1960s, the labour relations unrest in the late 1970s, and their eventual unionization in the 1980s.

The Home also revised its incorporating legislation by amendment in 1978. For the most part, the revisions appeared to simply modernize the legislation with a couple of significant changes. One significant change from its predecessor legislation was the codification of a Board of Directors (replacing the Board of Trustees) responsible for the administration and management of the Home through the election of a chairman, vice-chairman, treasurer, and secretary.[113] And, as stated previously, the 1978 revisions also introduced the AUBA as the primary beneficiary to receive any and all surplus assets of the Home in the event the Home dissolved or wound up.

Unfortunately, the above-referenced structural and governance changes resulting from the 1978 amendments, combined with significant changes in the racial makeup of the Board of Directors, did not resolve the fundamental issues confronting the Home. There remained a lack of accountability or oversight with respect to governing operations at the Home. There was no evidence of any measurable improvement in the care provided to residents in the Home, and the amendments did little to resolve the Home's financial challenges. Arguably, the same fundamental governance, finance, and structural deficiencies that brought the Home to near dissolution in the late 1960s continued in full force and effect over the next few decades.

Operations Overview

As the previous sections outlined, the Home's operations over the decades were framed within a series of complicated and intersecting sets of structuring relationships. The impact of these relationships, over time, had the effect, intentional or otherwise, of influencing the functioning of the Home, which ultimately impacted the lived experience of children and youth who resided there. It is from the vantage point of hindsight that we can see these patterns of relationships and themes in the Home's operations. These enduring themes, over the decades, will be discussed and examples provided from primary sources in a chronological format so readers can see the shifts, trends, and patterns that, over the course of history, wove the complicated story of the

Home and serve to provide an illustration of the context, conditions, and circumstances that framed the lived experience of former residents.

Over time, there was tremendous social, legislative, and regulatory change and development that had an impact on the Home's operations. However, despite this shifting landscape, there was continuity in some of the persistent themes that transcended each of the phases outlined below. These themes include:

- Recordkeeping: records pertaining to the care of children were noted as incomplete; records of the Board of Directors itself, with respect to its governance and decision making — including financial practices — were also sporadic
- Governing Practices: particularly internal to the Home's Board of Trustees/Directors, and intersecting with staff members directly involved in operating the Home
- Staffing Issues: inadequacies in terms of numbers and training/development
- Financial: a complicated financial arrangement that relied on a varying combination of public and private sources of funding to sustain its operations
- Programming for Children: recurrent theme of inadequate programming offered to residents to meet their needs
- Focus on Sustaining the Institution: much of the recorded documentation points to a constant effort at ensuring the sustainability of the institution in the name of the institution's vision and significance but not necessarily its purpose — at times, with little regard for the children the institution was meant to serve

Given the long and complicated history of the Home and its operations, the focus here is on the significance of its history as it relates to the central issues of the Restorative Inquiry. The Home's operations are articulated through temporal phases of its lifespan. In the following sections, a summary of major themes and significant developments during a period will be provided followed by illustrative examples to signify the complexity of the operations of the Home. The enduring and intersecting nature of these themes is intended to counter the tendency to simplify the explanatory resonance of its history and function. In short, the story of the Home is not a simple one to relay: it is layered with complexities and relationships that necessitate a more relational understanding of its operations and impacts.

A. Early Decades 1921-1961: Building and Growing the Institution

B. Transition Years 1962-1978: Demise of Congregate Care and Resurgence of of Community

C. New Home Years 1978-1989: Change & Continuity

D. Later Years 1989-1998 and Beyond: Heritage Status and Allegations of Abuse

A. Early Decades: 1921–1961 Building and Growing the Institution

The early decades of the Nova Scotia Home for Colored Children (the Home) were marked by significant investment of efforts — both human and financial — in building and developing the Home. There was sustained focus on fulfilling the vision after the Home officially opened. The building was completed in 1921, and in the following four decades of operations, infrastructure was added, concluding with the completion of the Cumming Annex in 1961.

During this period, the Board of Directors (the Board) was focused on building and sustaining an institution intended for the benefit of the African Nova Scotian community. This was in keeping with the original vision to provide both residential care and industrial training for dependent and neglected Black children.

During this time, changes in the child welfare sector, combined with increasing legislative and regulatory oversight, caused the Home to experience an increased monitoring of the quality of its child care and its financial practices.

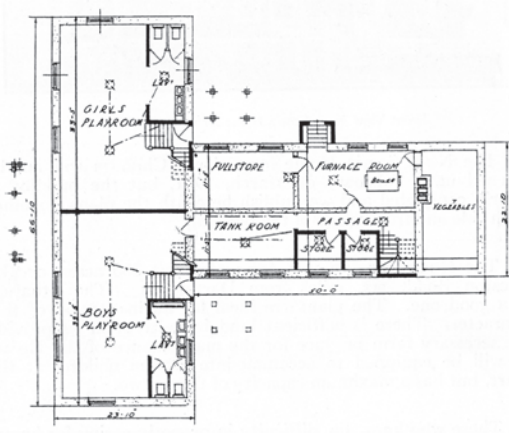
Initial support and funding from Government, the African United Baptist Association (the AUBA), and the community, though important and necessary, was insufficient to meet the Home's financial and operational needs. As a private, non-profit institution, the Home encountered precarious fiscal circumstances in the course of completing its infrastructure growth, all the while trying to meet its responsibility for the care of children under its charge. It is evident the Board, many of whose members were long standing and had been so since the Home's opening, extolled much time and effort in fundraising and securing financial support, rather than attending to the conditions and circumstances of the functional operations of the Home. It is during this period that concerns of neglect and abuse began to surface. These concerns seemed to have been treated as isolated incidents with little attention paid to the context and conditions that contributed to the harm as articulated by former residents.

The Nova Scotia Home for Colored Children (the Home) officially opened in 1921, after considerable planning. It was situated on 212 acres of land at "Preston Road," Halifax County, Nova Scotia, purchased for $5,000 by the Nova Scotia Government from William McKenzie, a local area farmer.[114] It was described in the annual report of Government and Home promotional pamphlets as having sufficient land in cultivation to provide necessary farm produce for the maintenance of the Home.[115]

The plans and specifications for the building of the Home were approved by the Provincial Government in the fall of 1919, and, in 1920, the Home was contracted for construction with an estimated cost of $24,920.[116] By 1921, Government contributed $10,000, by way of grant,

towards the total cost of building and furnishing the Home, which was estimated to be $30,000.[117] The African United Baptist Association (the AUBA) also contributed to the cost from a combination of its organization, communities, and ladies auxiliary.[118]

At the time of the Home's opening, it was equipped to accommodate 16 children, with the intent to have a maximum capacity of 32.[119] The institution received children on March 11, 1921, even though the building was unfinished.[120] The Home employed a registered nurse as its first matron, who subsequently resigned and returned to the United States in 1922.[121]



NSA, Eighth Annual Report, Superintendent of Neglacted and Delinquent Children (1920)

Original building plans

When the Home opened, its operation was overseen and governed by the Board of Trustees, of which Henry G. Bauld was president — a position he held until his death, in 1948. James A.R. Kinney held several roles — first as secretary, then as secretary and manager, and as the Home's superintendent, until 1939.[122]

NSA Library, VF 159–25

Sadie Steen

Part of the operations of the Home during this time included education for the residents. An onsite school was established, and school-age residents were taught all subjects from grades 1 to 9 in the main building. Promotional pamphlets from the era indicated training received by the children was the same as that followed in all public schools.[123] The school program at the Home was included in the annual inspections of the Superintendent of Education. The operation of the school with an African Nova Scotian teacher during the early years was significant in that many African Nova Scotian communities struggled to open schools due to challenges in acquiring Black teachers.[124] By 1927, the school was moved from the main building to the remodelled farmhouse for increased size.[125]

From its opening up until 1924, the Home continued to enhance its infrastructure so it was finished and furnished. A two-storey ell was added, which provided space for a superintendent's quarters, a dormitory for eight children, sewing room, and bathroom;[126] electric lights were installed; the barn was remodelled; and a carriage house, piggery and henhouse were built. The Home reported having 35 children under its charge.[127]

NSA Library, VF 159–26

NSHCC School

In 1924, the Government conveyed the land and buildings to the Home's Trustees, consistent with the intent to acquire the land for the purpose of the Home.[128] The Order in Council (OIC) indicated "it was not the intention that the Province should have any beneficial interest" in the lands. The OIC authorized that the legal interest be transferred to the corporation (the Home).[129]

From the beginning, the Home was noted as encountering money problems "due in large measure to the delay by the Municipalities in making payment for the children being boarded there." It was reported that the water system needed repair, the school was small and crowded, and $15,000 was requested for a farm extension.[130]

The farming operation was believed to be a viable source of income and an important part of the overall operations of the Home. Correspondence from Board President Bauld to Superintendent Blois reported on the farm extension potential, already believed to be one of the largest in the district, and noted that the accomplishment of the Home getting some crops to market was attributable to the assistance of the children.[131] Promotional pamphlets produced by the Home noted the dual purpose of the farm to the operation of the Home: a business enterprise, producing and marketing dairy products, eggs and vegetables, which provided a source of income and also fed the residents. "Altogether apart from the education it provides" (to the boys and girls, in weeding and other light work), "it provides for the required expense of labor, fuel, food, milk etc."[132]

NSA Library, VF 159–26

Home farm

NSA Library, VF 159–26

Home farm — picking peas

The Home's Board of Trustees extolled significant effort in ensuring funds were available for the Home. Correspondence during the mid-1920s from the President of the Board to Government outlined many efforts at fundraising for the operations of the Home. In the correspondence, President Bauld noted that Secretary Kinney had been nearly single-handedly responsible for fundraising efforts thus far in the Home's operations, and that support had come from generous individuals in Upper Canada. The letter pointed out that no community chests were forthcoming from local efforts, and that Kinney would again be

travelling to Upper Canada to continue these efforts and wanted Superintendent Blois to provide support statements of the good work of the Home.[133] Within this series of letters between the Home and Government, it was clear that Government was not supportive of making appeals for charity to the "Upper Provinces."[134]

By 1928, records indicated the Home had mortgaged its entire property for $8,000: $5,000 was used to pay the Royal Bank of Canada on account of a $6,700 overdue bank loan, and the balance was put on current outstanding liabilities.[135] The mortgage was eventually paid off in February 1940.[136]

The Home marked its 10th Anniversary in 1931. The number of residents had gradually increased over the first decade, fluctuating in numbers from 26 to 36.[137] The farming operation was seen as a central part of the Home's success story and aligned with the original vision of the Home as an industrial training opportunity. The Home's promotional material, used for annual appeals for funding, highlighted the farm as providing vocational/farm training for the boys, food for the Home, and additional income in sales of produce to the community; however, it noted funding had not yet permitted the provision of a manual training instructor.[138] In 1932, Dr. Melville Cumming, a former principal of the Nova Scotia Agricultural College, joined the Board as "director to check the farm operations."[139]

Family submission to Restorative Inquiry

Children and staff, NSHCC (circa 1930s)

During the 1930s, the Home's Trustees continued efforts to raise private funds to support the Home's operations. Again, promotional pamphlets were used to articulate the context and rationale of the funding needs[140] and, in this decade, the annual radio broadcast started featuring the children as active participants.[141] Newspaper coverage of the broadcast reported an increasing level of donations over time (1959: $5,000; 1976: $22,000; 1985: $32,000; 2001: $40,000).[142] By 1972, the event was televised. It became a telethon in 1985 and ran for the better part of the next three decades.[143]

By the end of the 1930s, the number of residents fluctuated between 30 and 40[144] and there was a transition in leadership at the Home as A.R. Kinney had ended his tenure as secretary and manager. Matron Fowler, the Home's superintendent from 1924 to 1940, assumed Kinney's operational responsibilities at the Home; however, she was not represented on the Board.

Coinciding with the statutory and regulatory developments regarding child welfare in the 1940s, the Home experienced increased oversight and questioning of its child caring operations by children's aid societies throughout the province, as well as the Provincial Director of Child Welfare. At the same time, the infrastructure of the Home increased in value and farming operations prospered.

Figure 1: Home Property Values 1940 – 1949[145]

Year	Property Value
1940	$65,000
1946	$75,000
1948	$90,000
1949	$120,000

This period also witnessed the Home prosper as a commercial farming outlet and placement centre for agricultural students, who worked the fields alongside the older residents.[146] However, in 1940, the Home mortgaged a portion of its property for $6,000 and subsequently paid the mortgage off.[147]

In 1944, Nova Scotia restructured Provincial welfare and created a new Department of Public Health and Welfare; this also changed the leadership of Government oversight to the Home. Judge Blois became Deputy Minister of Public Welfare and F.R. MacKinnon was named the Province's Director of Child Welfare.[148] Upon the retirement of Deputy Minister Blois in 1947, MacKinnon was appointed as one of two deputy heads for the Department. MacKinnon retained responsibility for the administration and management of the Mother's Allowance section, the

NSA Library, NS Information Service, 2007–050–0333#1

Fred R. MacKinnon

Child Welfare Program, and the Nova Scotia Training School. MacKinnon provided a consistent oversight role within the Province as he remained responsible for the child welfare portfolio until his retirement in 1980.[149]

Up to this period, private child caring institutions operated under the direction of their own boards of directors with little operational oversight provided by Government in the way of regulations and little connection with other institutions. MacKinnon noted that the authority to inspect an institution was of limited value, indicating such inspection needed to carry the power of some Government body or official to ensure proper standards were set and maintained. This is the first time there was a concern over the link between independence of child care institutions and the quality of care administered. MacKinnon noted that supervision of privately owned and established institutions was worthy of attention because of the large number of children and large sums of public money being given to these institutions. MacKinnon's report suggested that increasing the power of the provincial office would improve the efficiency and accountability of services.[150]

MacKinnon was also instrumental in the formation of the Nova Scotia Association of Child Caring Institutions (NSACCI) in 1948. He played a central coordinating role in holding monthly meetings (at least January to May 1958) and annual conferences/meetings. The NSACCI attempted to reduce the isolation of the child caring institutions and improve the welfare of their respective institutions.[151]

During the latter half of the 1940s, an increase in attention to the operations and living conditions of the residents was documented through Home inspections and correspondence. There was correspondence between multiple children's aid societies and the Provincial Director regarding the provision of family allowances that were intended to be paid to wards of the Home and were often held in trust by the children aid societies. It appeared there was a concern over resources and lack of programming and attention to the residents' needs. Correspondence suggested there was a reluctance to send the family allowances directly to the Home and questioned the appropriateness of the Home asking for the allowances without providing details as to their precise use. The letters suggested that a central issue regarding the allowances was their intended use, as the allowances were meant for the benefit of the individual wards, yet the Home would not provide any clarity to agencies identified of the programming needs of the residents. The Provincial Director was called upon to intervene and correspondence suggests it

was also a means to ascertain the extent to which the agencies were paying their maintenance and allowances to the Home.[152]

By 1946, up to 70 children were lodged in the Home and there was a call to extend the facilities soon.[153] Several Home visits and inspections from 1947 to 1949, including one from the Provincial Director, outlined environmental and operational conditions that came to shape the living experience of residents, which were in stark contrast to that of staff members. These officials expressed concern about the meagre living conditions of residents in comparison to better conditions for staff. Concerns were documented about the provision/lack of food, supervision, and inadequate facilities. All summaries indicated concerns with staffing levels, including the lack of specialized training as well as the lack of supervision of children. One visit noted there were only three regular staff: the matron and two helpers, when ordinarily there would be seven with a resident population of approximately 60. In MacKinnon's summary, he noted that the farm operations occupied five men, and the supervision of approximately 60 children occupied five female staff.[154] In terms of the observation of the physical living conditions, all inspections noted the cleanliness of the Home, yet commented on the overcrowding of dormitories with their sparse furnishings and lack of personal belongings, absence of toys and games in the playrooms, lack of coats and boots in cloakroom, and inadequate toilet and kitchen facilities for the number of residents, as well as the absence of menu planning.[155]

Excerpts from the Romkey Inspection, 1948

> The outstanding fact of this Home is the cleanliness of the place. The floors are scrubbed white and there is not one thing out of place. One wonders if the children just sit on the benches in the playroom without moving, because nothing is out of place. Of course there were no toys or play material around to be used.
>
> This room (kitchen) is immaculate and spotlessly clean. The kitchen stove seems too small to do much roasting of meat or preparing a full course meal for 64 children and a staff of 10. There are two small pantries off the kitchen where an electric refrigerator is kept. The small quantities of food kept in this refrigerator would only be sufficient for the staff not for the 64 children.
>
> (Matron) told that she kept no records at all in the Home…for the past 8 years,…the Secretary-Treasurer has looked after all the bills and board rates.

The inspection report by Lillian Romkey in 1948 expressly recommended notifying the Board of the concerns with children's meals, which were noted as in stark contrast to staff meals, as well as recommendations the teacher spend more time mingling with students when not in the school (such as during lunch) and that younger staff be considered for employment.[156]

While Government was attempting to determine the status of residents at the Home[157], the Provincial superintendent's annual reports started to record the number of non-wards, who were not financially supported by the Province or the Municipality (as indicated in Appendix ??). The trend to record non-wards was short lived in the annual reports; however, acknowledgement of the Home providing care for non-wards contributing to the financial and operational challenges continued in subsequent decades of operation.[158]

In June 1948, the Home built and opened the two-room Henry G. Bauld Memorial School, opened on a site just north of the Home, offering studies "K–9," industrial arts, and domestic science to 63 residents and neighbouring students alike.[159] It employed two teachers, one teaching grades 1–3, and the other grades 4–9.[160] The original cost to the Home was $28,000 and a loan of $10,000 was received from the Department of Education. The Home provided $12,000 from "collections" and "Special Gifts."[161]

NSA Library, 1955 NSHCC brochure

Two school classes and teachers

By September 1948, the Home reported a deficit of $2,000.[162] Similar to other institutions, the Home's source of finances was a combination of public and private funds. Although maintenance from Government appeared stable over the decade, the percentage of public funding dropped (steady but gradual decline from 85 per cent to 60 per cent since the Home's opening).[163] This increased financial strain was noted and the Department appeared interested in ascertaining the rates paid to the Home for placements made through the children's aid societies or privately, as well as the number of residents for whom the Home was not collecting rates.[164] In a letter from Board President Cumming to the Department, the Home attempted to provide an explanation as to its financial position and explained that the Home had never been able to establish a capital account, and their policy had been to pay for construction, such as the new Bauld Memorial School, from current accounts and supplemented by borrowing.[165]

By 1950, the *Child Welfare Act* came into force with accompanying standards, with specific inclusion of child caring institutions — the first set of regulations for such institutions. This act superseded and replaced the *Children's Protection Act, 1917*.

Early into the 1950s, the Home was comprised of five buildings and the capacity of the institution was noted at 75. There were 18 employees, including two "supervisors of recreation," and three men "operating the plant — engineers, janitors, farmers, worker on the grounds etc." There were also two volunteers working in the "recreation programme."[166] The farming operations generated over $50,000 a year in income for the Home, although the profit margin was considerably less ($5,000 per year).[167] Yet, despite the successful commercial enterprise, there were reports of hunger and lack of food at the Home.

NSA Library, 1955 NSHCC brochure

Matron Kinney, President Cumming, and Superintendent Kinney

In 1953, Ross Kinney, son of former Superintendent J.A.R. Kinney, joined the Home as its superintendent/manager, and his wife was listed as the assistant matron.

In 1954, Superintendent R. Kinney requested the Department of Public Welfare have a public health nurse give pupils physical examinations, something that had last been done in 1951.[168] It also marked one of the earliest documented cases of physical abuse of residents. A series of correspondence from the Yarmouth Children's Aid Society to the Department outlined physical abuse and "ill-treatment" of their wards while resident at the Home, suggesting the need for a thorough investigation. The case involved a young girl returned from the Home with "stripes on her back" and bruises on her leg that she stated came from being "beaten exceedingly with a switch and with a broom stick." The case also highlighted the poor quality of clothing worn by the young resident when she arrived in Yarmouth and questioned the Home's use of the allowance that was provided for such things.[169] In response to the matter, the Department investigated and outlined steps taken in the matter, including interviewing another family referenced in the original letter from Yarmouth. That interview was summarized in an internal memo and noted the family had lived at the Home several years previous, and while the woman interviewed did acknowledge her younger siblings had been beaten on occasion, she noted that the beatings were not severe and were used as disciplinary measures for "breaking the rules." Given the amount of time that passed since the family resided at the Home, the memo indicated the information was not considered "valuable." The memo further indicated that the Department notified the Home of the complaint, and Kinney then travelled to Yarmouth to further investigate the claim. He informed the Department that he did follow-up investigation with the Home staff, and, after confirming the abuse by staff, he dismissed the staff. Kinney

informed the Department of his actions and that he intended to inform the Board, but, before he could do so, two members of the Board (Cumming and Mullane) arrived at the Department and, when they were made aware of the action taken, commented that Kinney "cannot do that" in relation to the dismissal of the staff member.[170] While no further action was documented, it does appear there was a lack of communication and clarity of the role and responsibility between staff and the Board with respect to the administration and handling of the situation.

Later in 1954, Kinney wrote to the Department of Child Welfare outlining concern that orphaned and neglected coloured children were being placed in other child caring institutions (both in the Halifax area and elsewhere in the province). He requested that the Department ascertain whether this practice was occurring, noting "that any cases in this category would be referred to us" as the Home had the space and staff to render service comparable to any other institutions in the province.[171]

A 1956 Department visit summary to the Home focused almost exclusively on the number of residents and discussion regarding responsibility for their care in terms of visitation and maintenance. The Department summary indicated there were 49 children at the Home: 33 wards from Nova Scotia, four wards from New Brunswick, and 12 non-wards, for whom some board rate was paid yet with little contact from family members. The summary document provided no commentary regarding other living conditions or staffing issues, yet noted the Home was aware of the risks of taking in residents without referrals and planned to do "as little as possible of it" in the future.[172]

During this same time period (1954–59), there were multiple pieces of correspondence regarding private placements of non-wards at the Home[173]. In one instance, Kinney wrote to the Department advising of a current private placement arrangement at the Home and requesting maintenance from the Department as the mother had defaulted on the arrangement.[174] Interestingly, the financial strain of private placements of non-wards was evident in a letter from the Board President to a mother inquiring about the possibility. In the letter, he recommended that the mother make arrangements through the Children's Aid Society so the Home could receive funding and she would be under no expense. The letter then further explained that the Home must stop taking private arrangements of non-wards.[175] It must be noted that the Board President seemed well outside his scope of authority to comment on the timeframes of such arrangements as indicated in the last sentence below:

> If we were to continue this policy, the home would be largely occupied by children so committed and we would have no room for the children regularly committed by the children's aid which is the sphere of the home's jurisdiction…I suggest you write to the Director of this branch submitting your case stating of course that you are not in a position to care for this child. In this case they will

> make an investigation and decide whether in their judgement you can or cannot take care of the child. If you give the child over to the children's aid the Family Allowance will go to this body. When however you are able or in a position to take care of the child he will be given back to you so that you will only lose control of him temporarily.

By 1958, the Department's summary of a Home visit mentioned building and structural changes — not to increase capacity of the institution, but to improve living conditions. The document signalled the Home's intention to request financial assistance from the Province in this regard. The summary of the visit noted that it did not agree with the Home's current capacity of 60. The notes mentioned that Kinney wanted to increase work in the area of "non-wards" as it was his belief it should be a function of the Home and he identified increasing pressure from the community to take this type of placement. The summary notes indicated Kinney was advised that all non-wards should come from a referral/recommendation of an agency, as was the policy with other institutions in the province. The notes referenced a resident placed via the Digby District Office who had been there for four years with no visitation from his mother, who was residing outside of the province. The notes advised that the Home received sporadic payments from the mother and suggested it write to the Department to have the resident's mother contacted to ensure a future plan for the boy. The visit also indicated that only the nursery and pre-school children were seen, and all appeared healthy and well.[176]

In early 1959, the Home submitted separate funding requests to Government. The first was sent by the Home's Superintendent Kinney regarding structural renovations, and the second was from the Secretary-Treasurer of the Board W.P. Burgoyne, in respect to the financial hardship of non-wards. The funding request for renovations outlined the Home's long operational history and the need to improve the conditions for the children at the Home: expanded dormitories and closet space, a recreation room, an expanded kitchen, and staff quarters. In his appeal for financial support, Kinney referenced the support and endorsement of the AUBA for the renovations and noted these renovations were not to expand the institution's capacity but rather to meet the standards of the Province.[177] It is not clear whether the request was approved or denied as the response letter from Deputy Minister MacKinnon simply stated that the previous year's request was denied, and that the Minister "will be prepared to give a sympathetic ear to your needs at any time."[178]

The second piece of correspondence in 1959, from the Secretary-Treasurer of the Board, outlined financial hardship incurred by the Home in cases of non-wards. It identified several who were current residents and the state of the arrears for each and requested assistance from the Department in rectifying the financial arrears.[179] The Department investigated the status of each of the residents identified and made recommendations for courses of action, including, in some cases, "wardship action" either through the Department or respective children's aid society.[180]

In 1961, the Cumming Annex, a brick extension named for the then-President of the Home, was added to the wooden ell. The purpose of the $75,000 annex — a fireproof, three-storey structure with dormitories, a study hall, and a kitchen — was to relieve congestion.[181] There was no mortgage on the annex. The Province contributed special grants totalling $40,000 towards the cost of the annex. Total fixed assets at the time amounted to $56,289.[182] The Board of Directors of the Home authorized a loan up to $35,000 for capital and operations using securities as collateral. Subsequently, a Finance Committee of the Board was established.[183] As early as 1960, the Board was made aware of the difficulty in securing and maintaining female help due to low wages, and this issue would become a common theme in the transition years 1962 – 1978.[184]

NSHCC with Cumming Annex

B. Transition Years 1962-178: Demise of Congregate Care and Resurgence of Community

During this phase, the Home experienced seismic shifts in its operations that were inclusive of its philosophical grounding, its institutional functioning, its programmatic offering, and its governance.

This period was marked by a multitude of evaluations, reviews, and reports — some specific to the Home and some more general to the field of child welfare, but all would shape and influence the direction of the Home. Some were commissioned

by Government and some by the Home itself. The period was also marked by a series of peaks — in terms of the number of children residing at the Home, completion of physical infrastructure, and a Board truly representative of the Black community — and a series of lows, including the closure of the commercial farming enterprise, closure of the school, decline of the resident population, and strained relationships both among the Home and Government, agencies and staff, and internal to the Board itself.

This phase bore witness to increasing legislative and regulatory oversight with focused attention on roles and responsibilities of the Board and staff, the trend to move from institutional care to foster care, changes in programming philosophy of institutions, and facility infrastructure limitations. The shifting norms of child welfare practices were significant during this period. A child's own home or foster care was preferable to institutional care, which would see the primary role of institutions shift to providing emergency shelter, specialized care on a short-term basis, or care for unmanageable and emotionally disturbed children. These shifts would lead other similar child caring institutions to close or adjust their mandates. There was little recognition of the cultural and identity needs of racialized populations in these shifting norms. The Home, therefore, struggled to maintain its mandate and legitimacy to care for Black children in the face of these compounding and intersecting pressures.

In light of these pressures, this period was also marked by a resurgence of the Black community's interest and involvement in the Home. The AUBA raised the issue of Black representation on the Board, a Human Rights Commission complaint prompted a review of operational and governance issues related to staffing, and two commissioned reports (Hall in 1970, and Dwyer in 1973) identified the need for the Board to be more representative of the community it served. The Home initiated changes to its own incorporating legislation which would include a provision that the AUBA be the first-in-line beneficiary to receive the assets of the Home in the event the Home, as a legal entity, dissolved.

Despite significant leadership changes in the Board in the 1970s, operational challenges persisted in the Home, including its future vision and financial viability. The Home was embroiled in a Catch-22 scenario with Government over its future: a bureaucratic and circular dance that would have programming changes tied to required funding, but funding required to implement programming changes. Towards the end of this phase, the Home had embarked on a plan for a new building plan, including a change in philosophy of operations and new facilities to meet operational requirements, which culminated in the Home closing its original

building and opening two new buildings under strained financial and operational conditions in the fall of 1978.

In this period, the Board was also responding and reacting to issues of abuse and mistreatment at the Home. There remained an individual focus on the isolated behaviours of residents and staff that rendered invisible the conditions and circumstances in which those behaviours had manifested.

By the late 1950s and early 1960s, the farming operation was not making much of a profit, if any at all. But over a nine-year period (March 31,1953, to March 31, 1961), claims were that it produced a yearly average of $9,094.02 worth of food for the Home, although there was no accounting or documenting in this regard. There was a lack of controls for food, the cook did not sign requisitions or receipts for food received, and there was no record of the number of meals provided for children, staff, or visitors, so, therefore, no accurate account of cost per meal was available.[185]

In 1962, a thorough review of Home operations was conducted by E.J. Dick, Superintendent, Nova Scotia Training School, Department of Public Welfare. He was appointed by Government with the full approval of the Board to conduct the review.[186] He reviewed the administration, assets, and financial operations of the Home and made a series of recommendations. With respect to staffing, the report outlined the operational relationships and noted that staff morale seemed to be high and the children seemed to be receiving excellent physical and mental care. It noted a lack of salary scales, that staff were not compensated for statutory holidays and had to double up on their duties when fellow staff were off, which was a general practice in all child caring institutions in the province. With respect to financial practices, the report stated there was no budget or controls system and there was a lack of uniformity in the auditor's annual statements. The accounting charged to the farm and the Home was not clearly identified. At the time of the report, the resident population was 32, and the report noted that since the population was down 50 per cent, the cost per child per day was high, compared to similar institutions.[187] Dick offered the following recommendations from his review of operations:[188]

Excerpts from Dick Report about Home governance

Superintendent appears to be responsible to the Chairman of the Board. He supervises the whole operation and delegates the internal operation of the Children's Residence to the Matron. The "Home" staff as the Children's Residence is called, take their direction from the Matron. The Superintendent spends a great deal of his time with the "Farm" and directly supervises the running of same. He gives direction to the male members of staff, such as farm labourers, farmer and maintenance man.

The Chairman of the Board takes responsibility for purchasing and where to purchase.

- Establish a budget and control system;
- Create a bookkeeping or recording system and have Superintendent submit a monthly report on expenditures;
- Prepare requisitions for all goods purchased and internal requisitions for food from the Farm and signed by receiver;
- Sell a portion of land to liquidate the debt of the new Annex, thus allowing bank interest on loan now covered by bond interest to be credited to general revenue;
- Discontinue Farm as it was operating at a loss and more expenditures would be required for building repairs, and it is not a medium for training for boys;
- Create a system of annual increments for staff or salary brackets for each job;
- Close School and have children attend the local community school, which is located half mile from Home (The Halifax County School Board questions the cost of the "Home School" and the Treasurer of the Home was of the view the school should be closed);
- Simplify the format of financial statement from auditors to give a clearer picture of the finances. A manual of procedure from the Department of Public Welfare would be appreciated. At the present time, there appears to be a lack of uniformity in their annual statements.

In a subsequent Board meeting in 1962, the Board agreed to send the recommendations concerning financial practices to the Finance Committee for action. An ad-hoc group was formed to devise a possible plan of action regarding the disposal of some institutional land. However, the minutes did not discuss matters pertaining to the school or staffing but indicated that "discussion too heavy for motion that the farm be discontinued."[189]

In February 1963, an emergency placement of 12 Caucasian children from the Halifax Children's Aid Society prompted a Board discussion of the legal and policy implications for the Home for broadening admissions.[190] At a special Board meeting in March 1963, schooling and placement concerns were discussed. A motion was passed that the Board make an official request to the School Board to have some of its students (those deemed academically capable) attend the William Ross School the following school year.

At the same meeting, the Executive Director of the Halifax Children's Aid Society discussed placement considerations for wards within their jurisdiction. He informed that, with exception of religion (Catholic or Protestant), the Halifax Children's Aid Society had no set policy on placement and would use the Home should the need arise; however, if the Home had a policy against

admitting Caucasian children, then other arrangements for care would be made. Following the discussion, a motion was passed that the Home "receive for admittance children of the Caucasian race, under usual terms; even though conscious of the needs of children of the Colored Race for whom the Home was founded."[191] However, at the annual general meeting of the Home's Board in May 1963, they agreed the admission policy — specifically, admitting children other than those of Afro-American race, would be left open for further study and discussion.[192]

Meanwhile, in September 1963, an annual letter of appeal for contributions went out to the public and identified the need to hire a teacher for "slow learners" to address the needs of those children not capable of attending public school. The appeal letter indicated that only 50 per cent of Home funding came from the Provincial Department of Child Welfare and the Children's Aid Society.[193]

In 1964, the Government commissioned Ernest Majury to examine the child welfare system, and in particular, the Children's Aid Society structure, and their relationship with child caring institutions.[194] While Majury was not charged with explicitly making recommendations about child caring institutions, his report did offer some valuable insight into the nature of the relationship of institutions generally and the shifting terrain in terms of purpose and philosophy of the care of children. This is helpful in understanding the context of the operations of the Home.

The Majury Report summarized the important history of child caring institutions within the province and noted that the "whole approach to institutional care has changed radically." It stated that while institutions were considered part of the total spectrum of child welfare, they should only be utilized for "that particular child whose carefully diagnosed need is specialized group care on a short-term basis." The report noted that long-term institutional care was no longer considered valid and provided some insight into the relationship of the agencies with institutions and the dilemma of the interface of theory and practice. For example, the use of institutions for emergency placements by agencies was noted as improper, yet often was a practical necessity.

Additionally, the report highlighted that heavy pressures on agencies did not make possible as much contact with children after placements as institutions would like to see. The report

Goals of institutional care as noted in Majury Report.

- The entire setting of the institution, both physical plant, grouping of children and type of staff is adapted to the treatment needs of the child and the group (not the older concept of the child conforming to the routinized demands of the institution).
- Skilled casework service to the individual child from within or without the institution to enable him to handle his anxieties and sort out his various relationships in a complicated life situation
- Recognition that the institution came into being in response to an immediate community need and that the need that gave it birth may no longer exist. To this end it must be sensitive to changing community needs and whether or not its current function is valid for the times.

suggested that lack of intake and screening policies between agencies and institutions resulted in admissions based on the need for shelter. The report also made passing reference to the issue of non-wards within institutions and suggested that the possibility of "the skillful use of day care services might be a closer approximation of the active need of the parents." The report expressly stated that a thorough study of child caring institutions, both individually and collectively, be undertaken.[195]

The number of residents increased from 45 to 60 in the mid-1960s and reached a high of 75 in 1965.[196] Director of Child Welfare F.R. MacKinnon queried the fostering of children to homes where Superintendent Kinney was the owner/landlord. MacKinnon noted that it was a "curious arrangement" that an agency would place a child in an institution only to have that institution arrange for a foster home. In the letter, he noted that a "Child Caring Institution is not presumed to have any competence in Foster Home finding. This particular responsibility and competence belongs to our Children's Aid Societies".[197] This practice, known to both of the organizational boards involved, ended in 1966.[198]

At the Home's annual general meeting in 1965, a supervisor from the Department of Public Welfare advised that the future trend for the child caring institution would be to provide care for unmanageable and emotionally disturbed children.[199] At that same meeting, the Home's Board remained divided on the issue of the farming operations following the Dick Report. Minutes of the annual general meeting reported an initial decision to discontinue commercial farming, but a special meeting in late September 1965 suggested otherwise and re-opened the decision. There was a somewhat heated discussion and the Trustees could not reach consensus. A Farm Committee was established.[200] Superintendent Kinney wrote to the Minister of Agriculture asking for a grant of $5,000 to assist the farm operations of the Home.[201] In November, the request was denied.[202] In 1966, the commercial farming operation ceased as it was no longer economically viable. This coincides with the retirement of Melville Cumming, referred to as "Mr. Agriculture," who acted as Director of Farm Operations in 1932 and President of the Board since 1948.[203]

By the mid-1960s, the Home was facing compounding issues related to its governance and operations, including shifting norms of child welfare practice, financial pressure, admissions policy and practices, farm closure, schooling, and staffing concerns.

In April 1966, the Government conducted another review of the Home, which was undertaken by Rosemary Rippon, Coordinator, Foster Home Services. Similar in theme to earlier reviews of child welfare, she noted that a child's own home or foster care was preferable to institutional care in meeting children's needs. In the Home's review, Superintendent Kinney stated that children do not seem to be placed at the Home to meet their needs, but rather the needs of agencies who cannot find foster homes, or parents who cannot meet the children's needs, and where community resources are not available. Rippon's report observed several operational components including:[204]

- Occupancy: The number of residents at the Home was 75 — the highest since opening — and recommended the number not exceed 65. Overcrowding concerns were noted. All but five residents were wards of agencies. The children appeared clean and neat but few, if any, had personal possessions.
- Nutrition and Food: Nutrition was noted as good on the day of the visit, but no advance meal planning was being done. The report indicated that since the closing of the farm, the Home only harvested enough vegetables for its purposes.
- Education and Programming: Pre-primary and primary age children attended the Bauld school, which had one teacher and noted an auxiliary class for slow learners. The teacher assessed children to see if they would benefit from attending community school. She noted children attended weekly Sunday school but only went to church in the community once monthly, which was indicated as a concern. Medical, mental health, and specialized services were accessible but not always available.
- Staffing Issues: The report noted 16 staff including cooks, domestics, laundry and child care. However, Rippon suggested extra staff should be required for the younger-aged residents to ensure more individualized attention. The current staff had no training in child care, nursing experience, or training, although the matron had 12 years' experience and was competent. The report indicated there was no personnel policy outlining job descriptions, minimum qualifications, or hours of work. She indicated there was some dissatisfaction over low wages which did not meet the minimum standard. She suggested staff attend in-service training and workshops when available.
- Admissions and Recordkeeping: There was no formal intake/admittance policies and emergency placements did occur due to a lack of community resources. Social histories of residents were delayed and not always up to date. Resident file information was not always up to date.
- Relationship with Agencies: The report noted that while relationships appeared good overall, there was a need for better communication between Home and agency staff regarding planning for children. It was noted that some agencies appeared to use the Home as a "dumping ground for the children" and that the Home received requests from citizens to "board" children. Referrals were forwarded to the Children's Aid Society for screening, but Superintendent Kinney suggested that

agencies were quite willing to have the Home do the assessment for placement. Procedures for discharge into foster homes were noted as unclear and "it should not be the responsibility of this institution to find and place children in foster homes." It was reported that agencies did not know their children placed at the Home because visits were infrequent and workers changed. Also noted was the lack of progress reports on agencies' work with parents towards reuniting them with their children.

- Home Governance: The report summarized that the Home was run by 20 Trustees who appointed directors and there was a committee structure, of which the Finance Committee was most active. The Welfare Committee was inactive and it was noted that Superintendent Kinney seemed to attend few meetings with the directors. The report suggested that Superintendent Kinney meet with the committees on occasion to report to them on the running of the Home, and to discuss necessary changes in policy.

Rippon then concluded the report summary with a number of recommendations, including that:

- there be an intake and discharge policy created and circulated to the agencies;
- agencies seek foster homes for children under three years of age before considering placement at the Home;
- agencies do discharge planning for wards;
- a personnel policy be created, and additional staff hired;
- an annual operational budget be created[206]

In 1967, a local newspaper article about the Home had indicated Board officials confirmed that the Home was no longer segregated, and noted that, in recent years, the Home started caring for "equally needy white children for whom there is no other place."[206] In the same year, staff wages resurfaced as an issue. The Board took the view that they were not bound by the *Minimum Wage Act* but agreed to undertake a study on salary classification and job descriptions for employees.[207] The following year the staff wage was increased.[208]

In late 1967, the Board identified the need to adequately prepare its residents for life after the Home, noting that many left the Home without vocational skills and preparation for adult life. It directed this concern to the Premier asking that the Province consider funding a training facility at the Home to provide residents with a trade or vocation to assist in addressing this need.[209] In response, in early January 1968, the Director of Child Welfare suggested to Deputy Minister MacKinnon that the Home dispose of some of its property and the proceeds could go towards a training facility.[210] Later that same month, MacKinnon, in a letter to the Board, asked that

the Home consider selling a parcel of land to accommodate the construction of 20 homes for low-income families in the Preston area. The aim was better housing for some of the African Nova Scotian families living in the general vicinity of the Home.[211] It is not known what, if any, response was forthcoming from the Home.

As the 1960s drew to a close, a series of events impacted the Home and influenced its operations:

- The 1967 *Child Welfare Act*[212] established a yearly rate for child caring institutions; and replaced "neglected child" with "children in need of protection."
- In 1968, Ross Kinney resigned as superintendent/manager of Home and Mary Paris became the manager.[213]
- In 1969, the Henry G. Bauld Memorial School closed following the resignation of the teacher, and the remaining student-residents began attending the public schools.[214]

NSA, Bob Brooks

Children walking to school

By the end of the 1960s, there was growing dialogue and concern about the representation of the Black community on the Board. Board minutes from July 1969 noted a discussion that there were not enough Black members on the Board, and it might be thought to be discrimination. The Board discussed representation and the recent turnover in Black membership on the Board and suggested that a broader swath of members from the Black community should be approached to join the Board. In his report from the same meeting, the treasurer also referenced race, pointing to his concern during the annual fundraising campaign in 1968 that certain "militant Black Panther leaders from the United States" had visited Halifax and this could have adverse effect on the donations. The treasurer noted, however, that many donors recognized "that the Home simply looked after young children who had no association with racism, militant or otherwise."[215]

In minutes from a Board meeting in March 1970, a letter was read from the AUBA in which they requested more involvement with the Home and the well-being of Black children, as well as more Black representation on the Board of Directors. The letter acknowledged that the AUBA had been "out of touch" and wanted a closer relationship with the Home.[216]

In 1969 to 1970, the Human Rights Commission investigated the Home. This originated from staff whose complaints centred around operation and governance issues at the Home, including clarity around roles and responsibilities of the Board and staff, wages and recognition, communications, and relationship of the Home with referring agencies. Correspondence indicated that the Human Rights Commission concluded it was difficult to determine if issues raised were racial discrimination; however, they worked closely with the Home to help resolve the issues.[217] Commission correspondence noted the Home had taken appropriate steps to remedy issues identified and the staff closed the complaint process in July 1970.[218] Board minutes in August 1970 also reported that the Human Rights Commission concluded its investigation.[219] Concurrent to the Human Rights Commission's investigation with the Board, there appeared to be growing internal tension amongst the Board regarding its financial situation and planning. An internal dispute between the long-serving Secretary-Treasurer Grayson and the Board in 1970 eventually saw Grayson end his tenure as secretary-treasurer, which also included the annual appeal for funds.[220]

As recommended in previous years, the Government commissioned Perry Hall of the National Study Service in 1970 to evaluate the private child caring institutions operating in the province. The Hall Report reviewed programs at five voluntary institutions and assessed the need for continuation and/or revision of their services and care. It explored the need for other types of child welfare services that might be undertaken and presented advisory recommendations for each individual institution as well as for the Department. The report confirmed the overall movement from institutional care to foster/family care resulting in declining populations for each institution: "This decline in number of children under care has been so continuous and substantial — from 444 in eight institutions in 1951, to 64 in five institutions in 1970 — that it precipitates the question of the future role of these institutional programs."[221]

The Hall Report noted the common characteristics of the institutions including financing models — noting that each was supported by multiple sources of funding, such as contributed funds, invested funds, grants from Government bodies, and payments from children's aid societies and the Province for wards. It concluded that income sources were comprised of a combination of private and public funds, and that "all of the institutions have considerable financial worth in the form of their present plants and particularly in the form of land surrounding the present buildings."[222]

The report made important observations regarding the referral process generally for institutional care, and the unique circumstances that the Home was also required to address. The report noted a systemic challenge faced by social workers who made referrals to institutions, saying many "refer children to these programs that the individual program may be ill-equipped to meet the needs of some of the children who are referred, but the placements are made out of necessity, when no other resources are available."[223] The report elaborated on the further complexity regarding institutional care of Black children:

> …the professional staff in the foster family programs reported they find special planning and effort is necessary to secure foster family care for black children. They state this is related to low income level and poor housing conditions prevailing among the black population. These factors are compounded by the fact that many of the province's population of 20,000 live in isolated rural settlements. These persons believe that they may be continuing justification for some time for a child rearing institutional program for some black youngsters from extremely deprived homes.[224]

The report also spoke to the "determinative role" Government played in the relationship of child caring institutions, and recommended that Government provide more clarity and guidance with respect to its standards, that annual reviews be conducted on institutional programs, and that the potential of differential rates for care be explored.[225]

The Hall Report made specific recommendations regarding the Home. It concluded that immediate action was necessary to ensure the Board was more representative of the community it currently served. It also recommended that a professionally prepared person, experienced in the program of a soundly run children's institution, be added to the staff. It suggested that when "a more fully representative Board was in place and had some experience in working together, that the future program role of the Home should be assessed."[226]

On the heels of the Hall Report and its recommendations, MacKinnon corresponded with Board President Alice Croft to encourage the Home to broaden its mandate to serve the whole community. This was in specific reference to other institutions either closing or revising their mandate to reflect the changing nature of needs and potentially filling a gap in service in the (Halifax) Central Region of the Province, "meeting a great community need."[229] Jules Oliver, as the Casework Committee Chair and on behalf of the Board, responded to MacKinnon to outline the Board's position that "the Home should remain for the health and welfare of our Black children; only revitalized to include the many areas of the future development of the Black Child." The position was based on the Board's preference for Black children to be adopted/fostered in Black homes. "The matter of racial, cultural, and self-identification is one of the most crucial aspects in order to ensure a positive, healthy, and mature development of a Black Child. We are of the conviction that this factor has been too long neglected."[228]

Following the Hall Report, many planning and strategy discussions occurred with the Board regarding the future operation of the Home, including its role, placement concerns, and ongoing communication with Government regarding the Home's future. One of the priorities for the Board was establishing an interim admissions policy for the Home which outlined the parameters for referrals as ages 3 to 12 years and noted that, while the Home's emphasis was on the Black child, it would not exclude any needy child.[229] This interim policy was distributed to all agencies and to the Department. In February 1971, Government representatives attended a Board meeting

to discuss concerns over the future of Home programming inclusive of topics related to the Hall Report recommendations, care of Black children specifically, institutional and foster care, and the interim admission policy that set out ages as 3 to 12 years. The Government cautioned against restricting the age limit to 12 years and not taking teenagers, as well as the potential of different financial arrangements for a revised program at the Home.[230] Later in 1971, the Department of Public Welfare drafted a proposed Policy on the Admission of Black Children to the Nova Scotia Home for Colored Children. The policy statement indicated it was contingent on the ability of the Home to provide an appropriate program to meet the needs of Black children and included age restrictions/parameters, the creation of an admissions committee, and placement considerations. The consideration was identified as whether the "institutional placement would appear to be as desirable or more desirable than a foster placement. Where placement in one facility seems to provide little advantage over the other, the NSHCC [the Home] will be used."[231]

The Casework Committee appeared to lead the Board through its programming development process. Within this area of planning, the Home acknowledged the difficult position they were facing in terms of its future, recognizing the necessary relationships with both the Department and children's aid societies.[232] Also noted was suspicion that this pressure may have been a strategic move to force the closing of the Home.[233]

At the 1972 annual general meeting of the Home, President Croft reported that the Home had corresponded with all agencies in the province and the Department to determine how many Black children were wards, and how many were in white foster homes. Results indicated that 60 Black children and 10 children of mixed origin were living with white families, and that the Department indicated there were at least 500 Black children in need of care. Croft reiterated the need to determine the future of the Home because it was definitely filling a need in the community[234]. The Casework Committee presented its principles and considerations for the future of the Home at the annual meeting as:

1. Black adoption or foster home care preferred.
2. If the former cannot be attained, the NSHCC [the Home] is the better option.
3. There is considerable amount of land available for development and the Home can still provide more for the Black child despite current thinking by many in the field of child welfare that institutional care is not adequate. The Home is in a position and is obligated to develop a comprehensive and preventative child care program for Black children. In other words, we have the machinery to build a better delivery system.
4. This assumption was supported by the Hall Study. The model adopted by the Trustees and the Board ingrained three basic therapeutic functions:

i. Developing a preventative program for pre-schoolers;
ii. Developing a back-up support program for those students attending school; and
iii. Initiating a treatment program consisting of counselling and therapy for the child suffering from behavioural and adjustment problems[235]

Notes indicated the proposed model was adopted in principle by the Department along with the development of the policy/administration of Black children to the Home by a joint committee of the Executive and the Department. Minutes indicated the next step was to enlist a consultant to develop the design of a complete proposal of the model presented.[236]

In 1973, the Home enlisted the services of community consultants Rafuse, Marentette & Dwyer (Dwyer) to provide an evaluation study of the Home focusing on the review of previous assessments/reviews of the Home, its financial status, and its management and administrative structure.

Dwyer reported on a two-month evaluation commissioned by the Board with the support and encouragement of the Department of Social Services. Dwyer noted the report's commissioning was the "result of the recognition by the Board of the extent of the Home's problems combined with their pride in the Home and their profound commitment to continue some form of viable services to Black children".[237] The evaluation report attempted to combine two recent previous approaches (Hall Report and Human Rights Commission) in terms of progress made in alleviating past problems and the present operation of the Home. It concluded with proposed models for consideration in designing future operations of the Home. The Home requested assistance from Government to help defray the costs of the proposed phased approach to the evaluation study[238] and it appeared that Government was reluctant to pay for an extensive study, indicating much was already known from previous work and that the evaluation study's broad focus was beyond what had been previously discussed.[239] However, following the completion of the study, Government did contribute to its cost after the Home wrote to the Minister's Executive Assistant to advise they had not yet received payment.[240]

Within the review, Dwyer noted many of the issues identified in previous evaluations of the Home's operations, specifically related to financial practices (poor accounting and bookkeeping, lack of annual budgeting, struggles with financial rates), staffing concerns (lack of training, salary issues, no personnel policies), and noted that recruitment of staff was informal and made through personal contacts. In terms of Board structure and governance, the evaluation noted that despite the Board's efforts at re-structuring to a committee format over the last few years, it was still "not working."[241] The re-structuring had not settled the confusion regarding the division between directors and Trustees and their respective roles. A more positive result, however, was the increased representation of Black individuals on the Board with the "increased

potential of input into the Home from the Black community. It is not felt this has taken place as of yet, but there is now more of a possibility of this occurring."[242]

Dwyer's report did offer new insight into the challenges faced by the Home. While previous inspections and reports pointed to a general lack of programming at the Home, Dwyer's report offered more detail as to the conditions of the Home that framed the experience of some former residents. It echoed long-standing issues related to programming, noting that no clear program policy or pattern existed at the Home. He identified "program" as support and extracurricular activities to basic residential care for the children, including counselling, social, recreational, educational, and cultural services. The report emphasized that the children's needs went far beyond the basics of food, shelter, clothing, cleanliness, and religion. The findings were similar to previous inspections over the decades: There were no games, educational arts, or cultural programs in operation despite the Home having physical space that could be easily adapted, but lack of staff input, expertise, and interest prohibited this development. Counselling and behaviour-modification programs were non-existent due to lack of staff training, competence, and experience.[243] There was little preparation or planning with respect to programs of child placement, orientation, and parental visitation.[244] The evaluation suggested that, while religious instruction was present, it should be facilitated in the community to provide both instruction and a socializing aspect by enabling contact with the neighbouring community.[245] The evaluation identified the facility infrastructure limitations — the difficulty to supervise residents because of the physical layout. The top floor was not used, so upkeep provided no return. Dormitories were described as very "traditionally institutional," allowing for little or no privacy, personal possessions, or individuality. There were no rooms for programming, counselling, and the like. The gym was poorly planned, equipped, and underutilized. The dining area was described as an area of "mass feeding" and seen as a chore. The grounds had potential but were poorly developed and underused. Some equipment existed but was not used as staff felt the children would abuse it.[246]

Dwyer's evaluation did provide reflection in an area not well documented in other sources — that being the relationship of the Home with the community (both Black and White), noting the area had not been satisfactorily analyzed. He suggested a significant difference of opinion among Board members from the Black community regarding the degree of interest, awareness, and pride in the Home. He noted that opinions within the community ranged from a strong position to general lack of awareness of the Home's purposes of existence within the Black community. The evaluation pondered if the pride and endearment expressed in the Home was not, in fact, that of the predominant religious segment of the local Black community and noted, "certainly this segment is well represented on the Board; to what extent is the rest of the Black community of Nova Scotia represented?"[248] The evaluation indicated the relationship to the white community seemed to be limited to Government and Children's Aid Society officials,

Board members, and fundraising efforts. The evaluation suggested the Board embark upon a full range of public relations activities to dispel myths and to improve the Home's image among the Black and White communities, as it appeared awareness of the Home in the Black community was predominantly historical, not functional.[248]

The relationship between the Home and Department was described as strained. The Board mistrusted Government policies and planning with respect to the needs of Black children in care; and the Department was concerned with the Home's continued inability to make basic decisions affecting its internal administration and programs. The report surmised it was apparent at both levels that the *per diem* weekly rate was insufficient to continue such a large-scale operation. The report noted that while "operational allowances are negotiable, it would appear the Department would not agree to any capital grants as long as the Home continued to possess the valuable, unused acreage and assets so readily available for capital funding in its own right."[249]

Excerpt from Dwyer Report regarding relationship of Home and the Children's Aid Society

This principle that the Home is used primarily as an alternative and not as a priority placement is reinforced at a staff level. The Board must plan within the framework that

a) children are not placed at the Home on a planned long-term basis;

b) placements become long term as a result of no alternatives; and

c) children placed remain under guardianship of the Children's Aid Society (CAS) and this final decision making regarding placements rests with CAS. There are no formal working relationships between the CAS Boards or staff and the Home.

The evaluation made 10 specific recommendations intended to address and develop the capabilities of the Home to continue to provide a service to Black children in the province.[251] While presenting some potential operational models for the Home, the evaluation identified that "an overriding problem, however, must first be well understood and solved before any future considerations are entertained. That is, the operation of the Board itself."[251]

Immediately following the Dwyer Report, the Board requested meetings with Government to discuss its finances, specifically, the *per diem* rate paid to the Home.[252] In response to the meeting request via internal memo, the administrator of the Family and Children's Services Division of the Department outlined that the per diem rate for private child caring institutions was set out in legislation (*Child Welfare Act*) as $3.50, noting that any increase in this rate was not budgeted for within appropriations for wards, and that many discussions with the Board had occurred regarding establishment of suitable programming at the Home that could see an increase in rates, once established.[253] Internal memos with Government indicated they were not satisfied with the outcome of the Dwyer Report, as it did not provide any further information regarding what Government saw as the critical area: identifying what particular group of children have the greatest need, and the type of programming requirements (staff, program goals, etc.) that

they could offer to meet that need.[254] From a review of the available documentation, it appears there was a circular argument at play between the Home and Government in terms of funding and revising the Home's philosophy/program. On the one hand, the Home was clear it required more funding to provide a different programming model; and on the other hand, Government stated it could provide additional funding once a different (and approved) programming model was developed.[255]

Concurrent to the strategic planning work, the Board was also confronted with issues of potential mistreatment of residents. In July 1973, the Board investigated a staff member for the use of corporal punishment against male residents and possible sexual molestation of girls. The Board's investigation concluded that corporal punishment likely did occur. With respect to the sexual molestation, the Board reported the possibility had to be considered, but that insufficient evidence was presented at that time. The Board noted that several Board members advised against further action at that particular time "as it might create additional difficulties," though they did not further elaborate on the context. The investigation report concluded that the staff member must be questioned regarding these situations with possible termination of employment being a consequence.[256]

Following this internal investigation of staff in the summer of 1973, Board minutes indicated the following: "it was felt that references to alleged misbehaviour of the part of older wards, notwithstanding our deep concern, should be deleted from the official record of the institution since the allegations were not firmly established."[257] Again, there was no elaboration as to the context of the minutes.

In keeping with the recommendations of previous reports and evaluations, the Home hired its first executive director, Bob Butler, by the end of 1973. One of his main responsibilities was developing the new program model.

In 1974, following a meeting with Government officials, the Board convened a special meeting to plan and develop a proposal for future programming and operations of the Home, including whether the Board ought to explore the legality and practicality of the Board acting as a children's aid society for Black children, as per its original constitution and incorporation.[259] As the Board prepared its proposal for its future role in child development, Government was likewise seeking clarity as to whether the Home did, as per the act to incorporate, have powers of a children's aid society for children of the coloured race.[260]

The Home then submitted to Government a summary of its proposed changes to reflect its proposed function as a community-oriented child development program for Black children. The summary included program components regarding services to children, staffing, finance, and administrative changes.[260] The Government's response to the proposal suggested that the Board had made sincere effort in developing the proposal with some thoughtful consideration

of critical elements; however, Government remained concerned that some aspects of the proposal required clarity, including elements of the Home's program, admission or discharge plans, and ages of children. The memo also expressed concern that the Home intended to accept children independent of agencies, as the summary was silent on the involvement of children's aid societies or district offices of the Department.[261]

In late 1974, the summary of a visit to the Home by the Department noted that some attitudes on the Board towards the operation of the Home were slow to change. In the report, Butler advised that staff wages were low, which made it difficult to recruit qualified staff from the community, and that the Board was reluctant to sell/develop existing property as it considered it "Black property and should remain so." The summary reported that the Home's executive director had visited other similar institutions for insight into their policy and programming and that work was ongoing in terms of developing the programming. Government officials stated that new standards for institutions would be available shortly and the Department was willing to assist the Home in its development efforts.[263] There was no reference to children in the summary report.

At the 1974 annual general meeting, reports of ongoing financial challenges were noted. It listed the *per diem* rate of $3.50 when expenses were estimated to be closer to $9 according to the Home's calculations.[263] These calculations appeared to include all operational costs and not just the expenses for children.

By 1976, the Home was embarking on a new building program. While there was some concern expressed by Government that the new program may separate Black children from the larger community (notwithstanding school attendance), it supported the program development. Interestingly, there was correspondence from Government that outlined a previously stated consideration that the Home dispose of its property and "use the proceeds to subsidize black foster homes in a substantial way" but recognized that the ultimate decision for the future program was with the Home's Board.[264] In response, the Home indicated it considered all options previously and proceeded, in consultation with the Department, with its plan to build new facilities on its site.[265] In the update provided by the Home's executive director to the 1976 AUBA annual conference, Butler reported that design work was underway for two new buildings: one, a receiving centre, and the other, a group home. Butler indicated that the financial situation of the Home was improving, due, in some measure, to the increase in the *per diem* rate provided by the Department. This increase was noted as going from $3.50 in 1974, to $12.50, and eventually $14.29 in 1975. His report interpreted the rate as recognition of the shift in status of the Home from traditional orphanage to professional child development service. He noted that the Home reorganized the shifts to make the operations more efficient, resulting in reduced staff numbers from 20 to 15. As well, in conjunction with the Department, the Home was reviewing staffing qualifications, training, and experience to reflect Government

scales. Qualifications for permanent employment at the Home had also increased. The update mentioned that two new male staff had been hired as part of the care program.[266]

During 1976 to 1977, the Home undertook a review of its constitution and bylaws to update and clarify the corporate structure of the Home.[267] Simultaneous to this process, the Board also added non-discriminatory language as part of the amendments to the incorporating legislation so that it would be eligible for its mortgage from Canadian Mortgage Housing Corporation (CMHC) for the construction of the new buildings.[268]

Through 1977, the Board strengthened its relationship with the community, consistent with the Home's original vision of service/betterment for the Black community. In this vein, the Board agreed to deed a parcel of its land for the development of the Black Cultural Centre. It did, however, express some concern for the centre's actual site and that it not interfere with the operations/privacy of the residents of the Home. The Home wanted to ensure that potential visitors to the Black Cultural Centre would understand the boundaries.[271] The Home also received a letter of endorsement from the AUBA regarding its new building project, explicitly recognizing the AUBA leadership and their assistance to the Home's Board since the Home's inception.[272]

As the Board was embarking on revisions to its own incorporating legislation, the Black United Front (BUF) had suggested that the Board should also consider changing the Home's name. In its correspondence to the Home, BUF stated that since the Home was an institution established primarily for the care, education, and proper training of the "Afro-Black race," the timing of a name change would be appropriate as it aligned with the amendments to its incorporating legislation. The letter further suggested that, given the Board's position to move away from the institutional set up of the old Home to group homes, that it might be wise to incorporate the phrase "Afro-Black race" in a name change, which could also help contribute to the overall success of integrating the Home with the community.[271]

By May 1978, the Home's incorporating legislation was revised in the Nova Scotia Legislature.

By June 1978, the Board was dealing with operational issues related to care of the children at the Home. A Special Committee report outlined several operational matters. The concerns were provided to the Board in a staff letter outlining issues with behaviours of children, concerns in the Home not being reported to Board, staffing and supervision issues, and school attendance and achievement.[272] The Board summary report outlined concerns of staff about the readiness of the Home, staff, and residents to move to the new operation and facilities later that year.[273]

In September 1978, Butler applied to the Halifax Youth Protestant Foundation for financial support. Part of the submitted materials included an undated program outline for the Home, which signalled a strained relationship with the children's aid societies. In these materials, the approach of the Home was articulated to have "total responsibility" for residents in terms of

decision-making authority/guardianship as the present situation of dual responsibility with the Children's Aid Society agencies was not working. It also included notation that all funding intended for wards should be placed in the trust and management of the Home.[274]

C. New Home Years 1978-1989: Change & Continuity

During this time, the Home persevered despite some significant challenges related to its governance and operations. The Home opened its new facilities and was immediately confronted with some new challenges and old lingering issues. Despite new infrastructure, the Home faced septic system problems that would persist for several years, unresolved staffing issues that would lead to a staff walkout, and declining referrals from agencies that resulted in one of the buildings closing temporarily.

Despite being more reflective of the community, the Board continued to have difficulty with fulfilling their roles and responsibilities, and, at times, struggled with its own internal relations. External relationships with the Children's Aid Society agencies and Provincial Government were also strained, contributing to low residency, which further compounded the financial pressures.

Also, during this period, the labour relations landscape was shifting at the Home. There were recurrent staffing issues related to wages, training, and working conditions that eventually led to labour disruption and unionization. Staffing issues were also interwoven with supervision concerns at the Home. The changing residency and profile of residents, while fewer in number and shorter in duration (see Appendix C), presented ongoing staffing challenges to adequately manage. The supervision concerns are well documented throughout this phase through reports from the Department, internal staffing memos, as well as an internal Board investigation into allegations of abuse.

Notwithstanding these challenges, the Home was able to stabilize its financial position throughout the 1980s through improvements in the Government funding format; concerted efforts to build relationships with staff, Government, and referring agencies; and attempts to implement internal management strategies. The Home also continued to explore and pursue future plans to revitalize its old Home site, consider a potential name change, and establish stronger community linkages.

In October 1978, the Home opened its two new buildings under strained financial and operational conditions. By 1979, the Home appeared to be in a very precarious situation.

- Staffing Challenges: In July 1979, staffing issues escalated to the point where 11 of 16 staff members walked off the job. The walkout began July 12th and lasted 40 days. Staff returned to work on August 20th. During this period of labour unrest, Government paid approximately half the *per diem*, compounding the Home's financial pressures. Prior to the job action, staff had presented a list of demands to the Board in April 1979 for resolution. These demands included a wage increase, the hiring of six additional staff, an extra week of vacation, improved weekend shifts, and better overtime pay. To help resolve the labour issue, the Department agreed to fund a 7 per cent increase in salary for staff. The Board determined that returning staff could be developed more, which would alleviate the need for additional staff. During the walkout period, the Board assessed Executive Director Butler's employment and reached a mutual agreement with him that saw his employment end effective July 31, 1979. He was retained for July and August on a separate agreement to deal with the septic system issue.[275]

  Following resolution of the strike, other staffing issues persisted. These included salary and qualifications, staff discipline, and dismissals.[276] Additionally, the Board determined it was unable to hire a new executive director due to the strained financial position and subsequently appointed an interim executive director on a volunteer basis for two months.[277]

- Facility Issues: One residence was closed due to lack of referrals and there were ongoing and significant septic system issues.
- Strained Relationship with Children's Aid Society Agencies: The Board noted a lack of referrals, which resulted in the declining population at the Home and further compounded its financial pressure.
- Internal Board Relationships: At the annual general meeting, the Home's president recapped the tumultuous past year of operations at the Home. The report stated that the Board had been "incohesive" over the last year — often pulling apart rather than together — and there was a "looseness" with confidentiality, which resulted in a "character stigma" across the province. It noted that of a Board/Trustee size of 19 members, only four or five had carried the work over the previous year.[278]
- Financial Position: Minutes indicated that the Home owed the Royal Bank $125,000 and the bank suggested options such as liquidating assets, selling property, fundraising, or having Government take over operations of the Home. The Board decided to liquidate $50,000 of the Home's assets at market value.[279] Correspondence from Government in December 1979 confirmed an increase in the *per diem* rate to $33.85 retroactive to April 1, 1979.[280]
- Relationship with the Department: Board minutes indicate that the Home had the support of BUF, which intended to look into the recent developments and relationship of the Home and Social Services.[281]

However, in 1980, a summary report of a Departmental visit to the Home noted overall improvement over the previous year. There had been some upgrading provided to staff, staff coverage for key child care hours, an admissions policy was drafted and circulated to agencies, and the relationship with agencies was improving. The report recommended an increase in staff numbers. It also noted that the Home felt strongly that money raised through their campaigns should not be included in their operating budget (similar to how children's aid societies were treated) and that they be able to use the money raised for program improvement.[282] In 1980, the Home changed its admission policy to remove age restriction of 15 years.[283] During that same year, the Board hired Wilfred Jackson as executive director.

In 1980, correspondence from the Department to the Home indicated a significant change in rate setting. The change excluded privately raised funds from the rate-setting formula. Up until then, *per diem* rates were set on the total expenditures less revenues raised in the form of donations and bequests. The change to exclude privately raised funds from the rate was intended to incentivize the Home (and other similar entities, including children's aid societies) to raise funds that would not alter their *per diems*, and also allow the Home to hire additional staff they deemed warranted through their own resources.[284]

By the beginning of the 1980s, there was external interest in the development of the property owned by the Home. The Facilities Committee discussed ideas with multiple associations/groups, including BUF, but ultimately rejected any rental agreements because the old buildings were in poor condition and the new space was to be prioritized for the new program with children. The committee did recommend that the Board consider beginning the re-zoning work that would be required for fuller use of all the property.[285]

But, by early 1981, further challenges emerged. Board minutes reflect apprehension in terms of the declining population at the Home and the changing profile of residents. There were concerns that the Home was receiving residents that were not considered "treatable" at other facilities.[286] The executive director report also noted issues with school attendance and the building.[287]

That same year, there was an evaluation summary of the Home by the Department. Cleanliness of the Receiving Centre was deemed inadequate. The staff/child ratio was not sufficient, and the evaluation noted the physical layout of Home and the staffing coverage/schedule made it difficult to supervise residents. The evaluation also indicated that "most staff are untrained and unqualified for the type of demands made on them by the children now placed in the Home." It further noted that case files did not contain individual program plans for children and the Home was not following its own recordkeeping policies/procedures.[288]

By August 1981, Board minutes documented $56,000 worth of grant funding from the Department of Social Services. The Finance Committee made recommendations to the Board on how to allot the funding to meet different operational needs, including retroactive payment

to staff. The minutes also included an update to the labour relations negotiations regarding staffing, and a note that the Board accepted the process including increases to staff wages.[289]

In September 1981, Board minutes indicated that the *per diem* rate paid by the Department of Social Services increased from $33.85 to $36.55, with a notation that the Home was running behind monthly in terms of finances.[290] The following month, the Board passed a motion to ask for assistance from the Department in terms of establishing an auditing and accounting system for the Home.[291]

Board minutes in 1982 reflected a concern from the executive director regarding the low child/staff ratio when the Home was at capacity of 32 residents, resulting in poor services rendered. Minutes also noted that steps had been taken to improve the physical condition of the Home, as was observed in the Department's previous Home inspection.[292]

The Home's old H. G. Bauld Memorial School, closed in 1969, was repurposed into the Bauld Community Centre, a meeting place for local community groups.[293] The project started early in 1983 when a grant of $18,130 was received. During the 1984 fiscal year, another $12,263 was received. The total cost of the project was $30,885.[294] The fixed assets of the Home then totalled over $600,000.

In June 1983, there was a report of sexual assault of a female resident by one of the male staff. Despite an internal investigation that deemed the assault to have occurred and the immediate suspension of the staff member involved, it does not appear that the police investigated the incident directly. At one point, the summary indicated that the Board discussed whether police should be contacted; however, it appeared that the idea was not acted upon. Three days following the Board discussion, the executive director met with the resident's social worker. The social worker indicated that she, in consultation with her supervisor, believed the police should have been notified. An internal Departmental memo indicated that the police were notified by the social worker and advised that they would not be investigating the incident. The summary report indicated that the social worker then advised the Home the following day that no charges would be laid. The staff member involved subsequently resigned his position at the Home.[295]

A Departmental evaluation of the Home in 1983 indicated relative improvement in the Home's effort to address previous concerns. It identified that Board and staff relations continued to be difficult ("a fair amount of disagreement between the Executive Director and Board over a number of issues") and a lot of energy was being expended regarding these disputes, to the detriment of the Home's programs. It noted that the Board seemed unaware of some its own procedures, as established in its constitution and bylaws. There was confusion whether the Board saw itself as an administrative board or a policy board. The executive director was confused as to expectations. The evaluation recommended clarifying the executive director role to include preparation of job descriptions and salary scales for administrative staff and

to offer direction and consistency. It noted an additional supervisor had been hired, which brought the number up to two; the shifts overlapped but remained only Monday to Friday. It was recommended that a third supervisor be hired for weekends, and, if not possible in the immediate term, then consideration be given to changing the shifts of current supervisors. The attitude of child care staff was noted as crucial. Comments from agencies suggested some staff seemed detached from the residents and did not set a good example (such as using foul language). There was a note that the image of the Home seemed to have been tarnished by an unprofessional manner on the part of some of the child care staff.[296]

The evaluation reported that agencies claimed the Home was responsive to requests for admissions and the Home was prepared to attempt to deal with children whose behaviour was problematic to others. It also suggested consideration of a possible name change to "Nova Scotia Home for Children," as the Home was, by then, accepting any race/creed. It indicated that there continued to be some difficulties in the relationship of the Home with agencies, and that while some improvements with the Home's program helped with the relationship, more needed to be done. It indicated that Home staff felt that agency expectations were not always realistic. The evaluation recognized the challenging cases the Home accepted as referrals. The Home also suggested that some agencies left children there and did not have much interest in maintaining active involvement — and some agencies noted that their active involvement was not always wanted. The report further recommended ongoing communication to improve image and working relationships.[298]

The evaluation reported that the resident capacity was 32; however, a typical population ranged from 23 to 25. It stated that the Home relied on the community to meet programming needs, but programs had to be available onsite. It noted little in the way of individual program planning with residents and suggested staff appeared uncomfortable with individual goal setting and progress reporting. While progress reports on residents were noted as improving, they were still falling short of regulation requirements. The evaluation recommended enhancing staff capacity to complete progress reports (one per year and build from there). In terms of resident supervision, the Department noted that some agencies questioned supervision levels at the Home as staff sometimes had difficulty accounting for residents. The design of the building did not permit easy supervision and special effort was required to more closely supervise both boys and girls in such situations. "Apparently, children like living at the Home, but some workers felt (whether cynically or not) that this related in part to the degree of freedom they had there." The report recommended that the Home carefully reassess the issue of supervision to ensure it was adequate.[298]

A series of memos directed to staff by the supervisor or executive director outlined concerns regarding the living conditions and cleanliness of buildings, and the care and supervision of the residents. One specifically identified allegations of abuse/mistreatment that was relayed

to the Board by a former resident of the Home.[299] The memo stated that the Board would be conducting its own internal investigation into the matter.[300]

A February 1984 staff memo outlined concerns that "intimate relationships" had developed between male and female residents, and that travelling often occurred between buildings and floors due to inadequate staff supervision. The memo noted that issues were most evident during weekends and night shifts.[301]

In early 1985, the Department conducted yet another program evaluation and audit on the Home. The evaluation indicated that the Home appeared to be in a good financial position (the report noted that the Home reported a surplus of $216,788 in 1984) and the audit concluded that the Home was very secure from a financial perspective. It noted that the Home's investments were unencumbered and could be liquidated if necessary. In terms of occupancy, the Home's *per diem* rate was based on an 80 per cent occupancy rate, which was noted as being favourable treatment in that regard when compared to other group homes and residential facilities whose rates were based on 95 per cent occupancy. The report identified underutilization as the Home's most significant and pressing problem – occupancy not even reaching an 80 per cent level (in 1983/84, it was 72 per cent, and for the first nine months of 1984/85, it was 64 per cent). It also noted that funding by the Department and other child caring agencies was not covering costs, and that there was a downward trend in terms of percentage occupancy and the length of stay of residents.[302] The audit report also stated that, despite the rate-setting change in 1980, the Home continued to pay for all its staffing from the per diem rate (the intent to have additional staff paid for using Home resources was not actualized). The report also questioned the Board's intent with respect to its investments, and the accumulation of profit. In the opinion of the audit team, the "accumulation of profits, which, in fact, represents public funds which were raised by the Home in excess of its requirements, is contrary to the normal objectives of a non-profit organization." The audit team recommended they discuss with the Board the intent of the investments as part of funding necessary program improvements.[303] The report also reviewed staffing complement and remarked that there was no supervisory staff on the weekends. It also mentioned several areas within internal controls and accounting records that could be improved.

The program evaluation identified several themes:

- Physical Environment: It was noted as being clean, yet the building for short-term emergency placements needed repairs, and the furnishings were deteriorating.
- Staffing Issues: These were almost the same as those identified in the previous year's evaluation. There was a need to have weekend supervisory coverage (the evaluation recommended either hiring an additional weekend supervisor or modifying existing schedules to

cover weekends). Staffing levels generally needed to be reviewed. Staff training and development had to be given high priority by the Board.

- Policy and Procedure: There was no admissions and discharge committee despite the presence of the admissions and discharge policy, which outlined admission procedures. A review of resident case files indicated that many of the procedures (criteria) were not present in files. This was surmised to be the result of the nature of placements (short term, emergency) and that the Home needed to determine which type of program it was providing to children. If the program was short-term and emergency placements, then many of the admissions criteria would not be necessary.
- Occupancy: This was a key issue in that both child caring days and average days for each child were declining. The evaluation noted that some social workers were using the Home as an interim step until the child could be placed elsewhere.
- Working Relationship with Referring Agencies: There was a very negative image within the child welfare community about the Home. Lack of communication was noted, and agency workers felt the Home did not have a plan for the child and there was no consistency in relation to the treatment of the child. The report indicated that some agencies saw the Home as a place of last resort, that the Home was merely providing shelter for children and little else. Interestingly, the report indicated that the Home staff had a similar experience with agency workers — lack of communication — with a particularly adverse relationship with local/district office of the Department of Social Services.
- Programming: In reviewing case files, it was difficult to get a sense of the program offered as many children were there for such short periods of time. Most were there on time outs from other facilities and placed there on an emergency basis until moved to another facility. However, for those children resident at the Home for longer periods of time, there appeared to be a program offered with a running resident case file. [304]

The audit report concluded that recommendations from previous evaluations by the Department had not been implemented and this resulted in the Home having difficulties maintaining adequate occupancy levels. It suggested that there would be a lack of understanding and reluctance to place children at the Home until the Home improved its image and communication with agencies. It further recommended that the Board needed to determine the program that they wanted to offer agencies placing children from across the province.[305]

Concurrent with the evaluation audit in 1985, the Home requested a meeting with the Minister to discuss several issues:

- The findings from the audit that had not been communicated to the Home;
- The opening of the Truro Secure Treatment Facility and its potential impact on referrals to Home; and
- The placement and lack of referrals from Black communities throughout the province.[306]

In the fall of 1985, the Government convened a Task Force on Family and Children's Services to examine the range of services to families and children in Nova Scotia within the jurisdiction of the Department of Social Services.[307] The Home's executive director was on one of the working groups related to Adolescent Services and Residential Facilities. Additionally, the Home submitted a short brief outlining concerns on behalf of the Board of Directors. Among other more general concerns, the Home identified the following:[308]

- Placement of Black children in foster homes. More input was needed from Black professionals/Community on specific placements.
- Consideration be given to the mandate of the Nova Scotia Home for Colored Children and whether services should be expanded to include becoming a children's aid society.
- The method at the time of allocating funds to the Home on a *per diem* basis was cumbersome and costly. They recommended that 60 per cent to 70 per cent of approved monies be given to the Home at the start of the fiscal year, and the balance be received through agency billings.

The treasurer's report at the 1985 annual general meeting noted several areas of concern with respect to the financial operation of the Home, including vulnerable areas identified through both the Government's audit as well as the Home's audit. In the report, the treasurer concluded with the following observation:

> Poor management over the decades of the 60's and 70's has resulted in the demise of one of the largest and most productive farms in the area and the destruction of the old home building. Continuing mismanagement and lack of financial control over the 80's will see the liquidation of the Home's marketable securities and if the trend continues the Home will celebrate its Seventy-Five Anniversary in bankruptcy and ruin.[311]

By 1986, the relationship with the local office of the Department continued to be problematic, and the Home corresponded with the Department to outline concerns and their experience. In the correspondence, the Home stated one of the Department's social workers was not working

collaboratively and was withholding pertinent information. The Home speculated the social worker was intentionally trying to move residents out of the Home environment.[310]

Concerns over resident supervision continued. A July 1987 staff memo directed that "under no circumstances is staff to leave residents unattended, without a full-time child care worker, whether in the home or on an outing."[311]

However, by 1987, the treasurer's report indicated that the Home's financial situation was stabilizing somewhat due to improvements in internal management practices of the Home, including bookkeeping in line with recommendations from previous audits. It also indicated that wages for staffing were due for an increase as per the contract, and noted the strain placed on the Home due to timelines with the billing process with some of the other agencies.[312]

Yet inadequate staffing and supervision persisted. In October 1989, in an update to the Board, the executive director identified some operational issues. While the Home was successful in maintaining some of its community programming connections, the report identified some of the challenges in operations at the Home. For example, there was a "critical incident" involving a staff member, current residents, and a former resident related to two female residents who had run away. The matter eventually led to the dismissal of the staff. The update also mentioned a police investigation into an allegation of sexual abuse of a former resident by current male residents that was later dismissed by police. The Board update raised the issue of the challenges of adequate staffing and supervision of the Home, particularly in the cases of the co-ed facility, and that their request for crisis intervention training for staff was denied by the Department.[313]

In December 1990, another update to the Board from the executive director highlighted the nature of the behaviours that staff were faced with from residents, including attempted suicide, self-mutilation, Satanism, weapons, and running away.

D. Later Years 1989-1998 and Beyond: Heritage Status and Allegations of Abuse

During the 1990s, the Board recognized the need to revisit their roles and responsibilities as well as their vision and mission statement. They saw a need to develop a strategic plan for the management of the Home's vast land holdings, given continuing financial woes. A Future Planning Committee was established to consider the future direction of the Board and to develop and maintain a vision for the Board.[314]

Ten years earlier there was an emerging external interest in the development of the Home property. By the 1990s, the Home's Board started to seriously consider restoring the old Home and making application for heritage status. The media picked up the story and decided to ask former residents what they thought of the idea. It was during these encounters that the abuse allegations at the Home came to light.

Perennial financial pressures caused the Board, during several periods of the Home's history, to consider the sale of land or the liquidation of assets. It will be recalled though, that the Home's incorporating legislation required that any such conveyances be for the "care, education, and proper training of members of the Afro-American race."[315] As mentioned earlier, one such conveyance was made for the benefit of the community, occurring back in 1951, when the Home sold one acre of property to the George Washington Carver Credit Union Limited, a Black-owned financial institution co-founded by Mr. Noel Johnston, (an industrial arts teacher) and Mr. J.A.R. (Ross) Kinney Jr.[316] The Home purchased the property back from the credit union in 1975.[317]

As early as the 1960s, there were suggestions that the Home consider selling assets as a means of addressing financial demands. One of the recommendations flowing from the 1962 Dick Report reviewing the Home's operations was to sell off Home property to liquidate debts and create programming.[318] Then, in 1968, the Government, in response to a request by the Home for public funds to build a training facility for residents, suggested the Home sell some of its land to build the facility.[319] By 1972, the Board's Casework Committee acknowledged the potential for land development to support programming, and the Dwyer Report the following year noted that it appeared as though the Department would not agree to any capital grants "as long as the Home continued to possess the valuable, unused acreage and assets so readily available for capital funding in its own right."[320] Yet the Board was reluctant to sell or develop existing property as it considered it "Black property and should remain so."[321]

Eventually, in October 1977, the Home did, at the suggestion of Board member Dr. Rev. W.P. Oliver[322], sell land to the Black Cultural Society[323] as the future site of the Black Cultural Centre, which was constructed in 1983. It is noteworthy that Schedule B of the deed required that any buildings erected on the land by the Black Cultural Society be for "the protection and preservation of Black Culture in Nova Scotia" and that construction not be commenced before the Black Cultural Society obtained approval from the Home. Additionally, should the Black Cultural Centre cease to exist, the lands were to revert to the Home.

Then in 1983 — again in keeping with its community-minded objective — the Home's old H. G. Bauld Memorial School was repurposed to the Bauld Community Centre, a meeting place for local community groups.[324] The building was partly rented by the Watershed Association Development Enterprise (WADE), a Black community development group overseeing a job-entry program.[325]

The Board was mindful that leasing might be preferable to selling land, as the "selling of land would be detrimental to the (Black) communities thinking and beliefs."[326] In 1986, the Home signed a 99-year lease giving Nova Scotia Power an easement route for an eastern transmission corridor over Home lands for $19,280 per annum.[327] Over the years, they also signed renewal leasing agreements with WADE.[328]

During this same time period, the Board set its sights on restoring the "old Home" building. At the Board's 1990 annual planning session[329] they decided that utilization of a refurbished old Home facility would allow the flexibility to provide a multi-purpose centre that could meet the needs of the Black working-class community. For example, the building could house such groups as the Black Educators Association (BEA), the Association of Black Social Workers (ABSW), the International Order of Daughters of the Empire (IODE), the AUBA, BUF, and WADE. The idea was to utilize these tenant groups as resources for the Home. The Halifax Regional Development Agency was considered a possible funding source for the completion of the restoration project for the old Home site.[330]

Land development was also identified as a key issue and the goal was to use it for the benefit of the Home and the community. It was felt that the Board's plans to embark on an Economic Feasibility Study and Development Plan for the Old Home site must include the Home's main *raison d'être*: childcare. If this mandate was not addressed "in an organized and planned fashion, then, over time, this function could be eroded, and the Home would lose its capability to respond to the needs of our youth in an effective and relevant manner."[331] The feasibility study was to be administered by the Program Committee to ensure grassroots input, a full assessment of current operations, and their possible expansions potential.

But financial difficulties stalled progress on restoration of the old Home. The biggest obstacle facing the Board at the 1991 planning session was the Department's proposed budgetary cuts and salary reduction. "It was felt that a 9.8 [per cent] reduction in staff, combined with lower occupancy and the closure of the group home, would signal an end to the Home, as we now know it."[332] Given the economic climate at the time, there was no consensus reached on restoring the old Home.

Yet, during a 1993 planning session, the Board contemplated community meetings to talk about the proposal for a "J.A.R. Kinney Complex" that would see the refurbishing of the old Home building. However, the Board was aware that the "Black community feels the NSHCC [the Home] is working in isolation," so the Board considered whether the Home's objectives related to the future of the Black community and whether these lands were owned by the Black community.[333]

A Fund Resource Committee was next established by the Board to consider various funding sources. The committee suggested that the fundraising broadcast, gospel fest, and book came under their mandate. The author and publisher of the book, titled *Share and Care, The Story of the Nova Scotia Home for Colored Children*,[334] agreed that all royalties from sales be turned over to the Home.[335]

Early in 1997, two special Board meetings were convened to discuss possible land development,[336] but it appears nothing came of the ideas which included:

- Building a golf course, which was rejected as being too costly, cost prohibitive for community members, and "not in keeping with what the Home is doing";

- Rezoning for residential purposes;
- Seeking experienced partners to build a seniors housing facility;
- Leasing land to HRM for development of a sports field.

The following September 1998, the Home did sell seven acres of land to Eastgate Shopping Centre Limited (ESCL) for $104,913,[337] with the only restriction being to not develop real estate for the operation of bars or gambling establishments and not to lease or sublease to tenants who operate bars or gambling establishments.[338] The parcel was zoned commercially (C-4) but was never developed and remained vacant. The parcel had been listed for sale by ESCL several times over the years (2005: $149,000; 2015: $329,900; and 2017: $1,194,000). The property is currently for sale as three parcels totalling $1,399,700 (two parcels for $249,900 and one for $899,900).[339] It is worthy of note that there is no proviso in the deed that the property be used for the "care, education, and proper training of the Afro-American race"[340] or for the benefit of the Black community, as required by the incorporating legislation of the Home.

In that same year, the Board made its initial application to have the old Home declared a heritage property.[341] Interestingly, while gathering information for the Old Home Heritage Status article,[342] a reporter with *The Chronicle Herald* "stumbled" onto the story of alleged maltreatment of residents at the Home throughout the 1950s and the 1960s.[343]

Meanwhile, refurbishing work on the old Home continued. By 2002, the Cumming Annex (brick section) and the adjoining (link) wood section were demolished and the West Wing (main structure) was completely refurbished on the outside. Work then slowed as approvals and permits were needed for onsite septic and water supply connections, and the cost for extending these services were prohibitive for the Home.[344]

At their 2002 annual general meeting,[345] the Board once again considered several initiatives related to the Home property:

- Locate the Afrocentric Learning Institute (ALI) on Home property, which "would fulfill the dream of lawyer James R. Johnston";
- Operate a foundation at arm's length that could contribute to the Child and Youth Care Programs;
- Sell 25 acres to City Heights Church, which was located nearby;
- Partner with Black Artist Network of Nova Scotia (BANNS) in the development of the Preston Cultural Festival initiative;
- Build an outdoor recreation commons.

It appears the only option pursued was the idea of a foundation. In a discussion paper prepared for the November 2002 Board meeting, one of the objectives of the foundation was to "remove assets, such as land and investments from the balance sheet, so that these assets are not used

to fund operations."[346] Draft bylaws were even prepared[347] but the application was eventually rejected in 2004 as the name "Nova Scotia Home Foundation" was too general and required "a descriptive element to indicate the type of business to be carried out by the company."[348] By December 2004, it was thought that the "outstanding lawsuit might present a legal impediment to move assets into a Foundation."[349]

Early in the 2000s, the Board decided to make another attempt to have the old Home site declared a heritage property. But it was not until 2006 that two recommendations were brought to the Board for consideration:[350]

- Subdivide the old Home site property to include the Henry G. Bauld Memorial Centre, the old Home, and the cottage;
- Apply for registered heritage status on the old Home "subdivided site," comprising approximately seven acres.

Finally, in August 2006, the HRM heritage property planner met with Board members to "revisit the NSHCC's [the Home's] initial application for registered heritage status for the original orphanage building."[351] The first application several years earlier had been denied. It was now thought that the additional facts would allow the Home to qualify for heritage status "while maintaining the best interests of the Home."[352]

Living Conditions

A full account of the living conditions encountered by residents of the Home is challenging due to a lack of documentation. For the majority of the Home's operation, Nova Scotia's child welfare legislation mandated child care institutions to be licensed. Such licensing required regular inspections and evaluations of child care facilities like the Home. We expected to find documentation demonstrating such regular evaluations of conditions of the Home. We did not.

The historical documentation that was maintained over the decades of the Home's existence is largely dedicated to operational aspects of the Home (funding, infrastructure, etc.). For a child care institution, there is very little directly related to the actual care of the child.

What we have learned from the experiences of children placed in the Home has been derived from a review of their sparsely completed case files, but mostly from the firsthand narratives of former residents who lived there and who have shared their experiences with the Inquiry. They shared their stories with us as adults, decades removed from living in the Home. While the conveyance of these difficult stories decades later has been cathartic and an important step towards healing, it also serves as a reminder that their firsthand voices as children will never be heard.

Numerous former residents shared their experiences directly with the Inquiry through sharing circles and regular "tea and talks." Many former residents who participated in the class action settlement also explicitly agreed that the experiences they shared within that process could be provided to the Inquiry. We are thankful for those who shared their stories. We undertook a careful review of each and every experience conveyed to us.

In addition to the first voice of those who lived there, our understanding of the experiences of children within the Home has been shaped by listening to family members of former residents and from the broader African Nova Scotian community. We heard the impacts of intergenerational harms resulting from the experiences of former residents of the Home.

The firsthand experiences of former residents speak to a lack of diligence from the adults and systems assigned to care for them. This is epitomized by the scarcity of historical documentation concerning the conditions endured by children placed in the Home.

We were able to locate a patchwork of historical documentation of the conditions of the Home. Much of this documentation is summarized in our earlier review on the operations of the Home. What little documentation exists nonetheless highlights the stark conditions to which residents of the Home were subjected. This documentation reinforces the firsthand accounts of the former residents who shared their experiences with us.

The accounts of former residents reveal an institution in which children were subjected to conditions below what Nova Scotians ought to expect from child care institutions.

A. Children were cold:

Living conditions at the Home were challenging from its origins. A January 8, 1927, letter from Henry Bauld to the Director of Child Welfare suggests inadequate funds to meet the physical needs of the building since its origin:

> To say nothing of the present condition of the Plant, let us go back to the opening in 1921 – the Main Building was then but half finished…I quite well recollect you expressing in the early stages the need for Storm Doors, Hardwood Floors, etc. and where would funds come from to do these necessary things if they were not collected.[353]

We heard experiences of former residents of the Home in the late 1930s and 1940s. Among their strongest memories were the cold temperatures within the Home during those years. Removing their clothes for bath time was especially unpleasant given the cold temperatures within the Home. One former resident recalled being told by staff that removing their clothes in cold conditions was to "toughen" them for the winter months. The cold temperatures were such that children would keep warm in the evenings by sleeping many to a bed.

Exacerbating the impacts of a poorly heated institution was the clothing provided to the children. Many former residents have shared with us their recollection of not being provided proper winter clothing. A female resident who lived at the Home for eight years in the late 40s/early 50s reported to us her recollection of having never been given a warm sweater or jacket. Several others have expressed similar memories.

We heard from numerous former residents about being sent outside in winter months without winter jackets. They advised that when faced with these conditions, they would huddle together for warmth on a large rock on the Home's property. The rock retained some warmth from the sun and would serve to further shelter these children from the wind and cold.

Former residents' shared memory of not being given appropriate winter clothing is supported by historical documentation. Several Home visits/inspections from 1947 to 1949, including one from the Provincial Director, noted the absence of children's coats and boots in the Home's cloakroom.[354]

Concerns about inadequate clothing for children in the Home were raised to the Director of Child Welfare as early as 1954, as documented in a letter from A.P. Hunt, Executive Director of Yarmouth County Children's Aid Society to F.R. MacKinnon on March 22, 1954:

> I think also investigations should be made as to the type of clothing that the children are forced to wear as (young girl) was sent out from the Home looking like a tramp with an old ragged coat on about 4 inches too short for her and too tight. Several dresses were all too tight and short, in fact her petticoat was about 2 inches below her dress. She had practically no underwear. She had an old nightdress made out of a flour bag. I am wondering what they do with the $8.00 that they are receiving..

Mr. Hunt wrote that he was raising the complaint "with reluctance" but noted that he was doing so because the young girl his agency had sent there "has been frightened there at the Home" and that "this same complaint has come to me from some of our former wards who were discharged from this Institution."[355]

A May 16, 1966, *Study of the Nova Scotia Home for Colored Children*, authored by social worker Rosemary Rippon, Coordinator of Foster Home Services, notes the following:

> Children would seem to have few, if any, personal possessions, with little individual storage space in which to keep them. Most of the children come into the Home without any personal possessions. Those that have are soon worn out or broken.[356]

The old Home building had coal furnace–powered hot-water heating provided by radiators. The new Home buildings, electric heating. Based on reports from former residents, temperatures in the Home seemed to improve with the move to the new Home.

A discussion of the cold temperatures within the Home cannot be concluded without reference to the reports of former residents that staff used temperatures as a form of punishment; some indicated that they would be locked outside the Home for hours on end in the winter months without coats or shoes for punishment.

B. Children were hungry:

The scarcity of appropriate food was another strong theme we heard from former residents who resided within the Home.

Despite evidence of the Home running a large and productive farm for many decades,[357] children residing in the Home during those years uniformly reported not seeing the yield come mealtime. Many reported feeling "starved" while resident at the Home. Numerous former residents described losing significant weight during their placement at the Home. They would receive comments to this effect from their families upon being discharged from the Home.

Former residents shared with us experiences of working all day maintaining the crops and animals, only to see what they reaped and sowed go elsewhere. To combat the hunger, many former residents resorted to sneaking food intended for the livestock (pigs and cows). If caught, they would be subjected to physical punishment.

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The Home was built with a kitchen and a cook had always been a member of the permanent full-time staff. Staff of the Home dined at the Home.

As noted in our earlier review of the Home's operations, there was some indication in a 1948 inspection report that the Home's kitchen was ill-equipped to service the dining needs of the children living in the Home at the time:

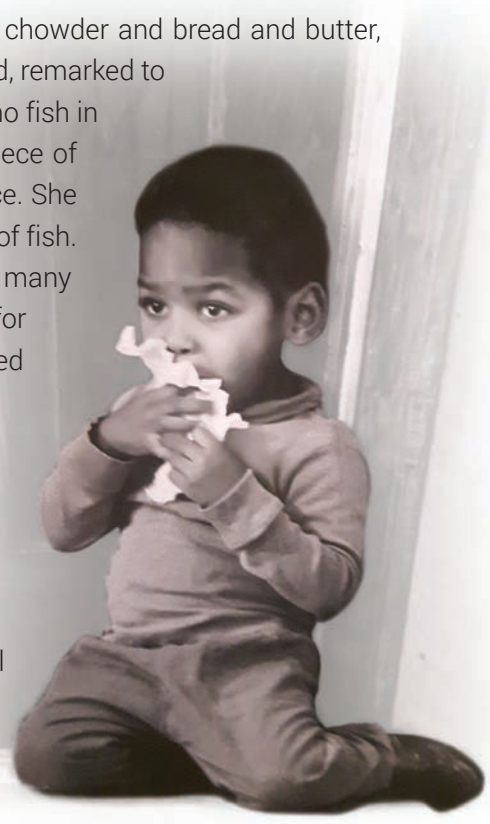
> The kitchen stove seems too small to do much roasting of meat or preparing a full course meal for 64 children plus a staff of 10. There are two small pantries off the kitchen where an electric refrigerator is kept. The small quantities of food kept in this refrigerator would only be sufficient for the staff not for the 64 children.[358]

In the face of inadequate facilities, documentation showing early concerns about provision of inadequate food to children within the Home is not surprising. Reporting on a lunchtime visit in February 1948, when he arrived apparently unannounced, Director of Child Welfare Fred R. MacKinnon wrote:

> There was nothing on the table except fish chowder in bowls and a pitcher of chowder on the table. There was no bread and butter or milk, either on the table or "Nanny" Fowler] was absent. I saw the cook [Mrs. Morton] who told me the menu for the noon meal was fish chowder, bread and milk – the bread and milk appearing on the table later. There was no butter on the bread. She told me that for breakfast they had oatmeal, porridge, milk and bread, and for supper they would have macaroni with milk and bread. According to her they get two apples a day.[359]

On September 13, 1948, social worker Lillian Romkey (a Departmental employee), wrote the following in a visitation report:

> Food: Here is the big weakness in the Home. There is too much difference between the food given the staff and the children. Worker [Romkey] told Mrs. Lucas ["in charge of girls"] that she was going to stay to see the children eat their lunch. Worker heard an order for bread to be cut and buttered as a result of the remark. The youngsters had for dinner fish chowder and bread and butter, nothing else. … One young lad, about 11 years old, remarked to Mrs. Martin ["in charge of boys"] that there was no fish in his bowl. Mrs. Martin said there was a lovely piece of fish in the big enamel pitcher in front of his place. She took a soup ladle and went dipping for the piece of fish. She did not find it. The soup seemed to consist of many fishbones, potatoes and milk. … The staff had for dinner vegetable soup, fried halibut, carrots, sliced tomatoes, pickles, potatoes, fresh apple pie, etc.
>
> It was useless to ask what the children got for the different meals as worker got the impression that the menus were being made up as they were being told. Mrs. Lucas told that the children got cornflakes every morning and after worker saying "Do they get a hot cereal in winter?" she was told that they got cream of wheat. With this they are supposed to get bread and molasses or bread and jam.[360]



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Ms. Romkey returned to the Home on October 28, 1948, specifically to see what was being fed to residents at lunch. She was left with the impression that the menu was altered to reflect her presence. Nonetheless her observations were documented as follows:

> The youngsters were seated around their tables which were covered with white oilcloth and each child had an oilcloth bib around his neck. After blessing they put their dessert spoons into some kind of thick boiled soup. It was comprised of potatoes and turnips cut in big squares which was boiled in water. The water made this concoction seem like a soup. We looked carefully into the bowls which were in front of us and no sign of meat could be seen. However one lad had a bone which was from plate beef. There to add to this there was large slices of bread and butter, some of which were covered with a thin spread of jam. Mugs of milk were also given the children. It was most evident that the milk and bread were not the regular noon dessert. This whole meal was full of starch. It is strange that there are no apples being used to make applesauce of. It would seem that a dessert is an unheard-of thing amount the children. The staff was having roast chicken for their dinner.[361]

Ms. Romkey documented a reported "*belief that the children are not receiving adequate food*." She recommended that the Board of the Home be approached over the concern. No documentation was found to suggest that anything was done to explicitly address the concerns.

A letter dated January 5, 1959, from Ross Kinney to F.R. MacKinnon advises that the Home does "*not have the (kitchen) space to carry through recommendations made by the Nutritionist, Nutrition Division.*"[362]

NSA, Bob Brooks 20190001400

The experiences relayed by former residents denoted an ongoing inadequate provision of food for children of the Home. We heard from several former residents of the 1950s about how they would be provided powdered milk only, notwithstanding working on an active dairy farm.

A female resident who lived in the Home for four years in the late 1960s reports no memory of being provided any food beyond oatmeal and broth. A male resident of the early 1970s told us that "paste sandwiches" (made of flour and water mixed together, between two slices of bread) were the lunchtime norm.

We heard how children in the Home adopted survival-behaviours in the face of inadequate food provisions. The 1973 consultation report by Dwyer described the dining area as an area of "rushed mass feeding."[363]

In the face of scare food provisions, mealtime in a "rushed mass feeding" environment would often result in conflicts among children. The experiences shared by former residents — in the face of competition over limited food — were that fights over food were commonplace. We heard how former residents would have to fend off others from their food at each mealtime. We heard how children learned to eat their meals as quickly as possible, while covering their plates to defend the food from other hungry residents. We heard how mealtime was poorly supervised by staff, thereby leaving hungry children to fend for themselves over limited food.

Many former residents shared with us that this learned behaviour would stick with them as adults; that even today they struggle to eat slowly and to casually enjoy a meal.

Reports of systemic food inadequacy among former residents diminished in the 1980s. However, as with warmth, the withholding of food was used by staff throughout the operation of the Home as a means of punishment. Former residents report throughout the decades, including the 1980s, being regularly denied meals as a form of discipline. We heard how being sent to bed without lunch and supper was commonplace.

A 1987 memorandum of Althea Tolliver to staff at the Home made note that food intended for residents was "disappearing and not being used by our residents." She cautioned that "this must stop immediately."[364] The natural suggestion of Ms. Tolliver was that staff were taking residents' food for themselves.

C. Children lacked planned activities and programming:

Historically, recreation was outdoor and mostly improvised by former residents. We have seen, for example, photographs of young children rolling abandoned tires around the grounds of the Home.

NSA, Bob Brooks

Swings and see-saws were located on the grounds of the Home shortly after it opened its doors. It was reported at the June 1929 annual meeting that "A new playhouse has been built to shelter [the residents] from the sun and to provide for their outdoor play."[365]

Former residents reported to us that, during the summer months, when weather permitted, outdoor recreational/play opportunities were mostly sufficient. The resilience and imagination of children allowed them to play and resource their own amusement, notwithstanding a lack of supervised or organized recreational programming.

Indoor recreational opportunities were a different matter. When weather would not permit going outside, children

would be subjected to long spells of inactivity and boredom. Former residents report the playrooms being poorly stocked with toys and very little in terms of programming at the Home. This firsthand reporting is supported by a number of historical documents.

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A July 6, 1947, report by Lawrence T. Hancock (visitor, Department of Public Welfare) stemmed from his visit to the Home on that date. After noting the recreational conditions, he made the following recommendation:

> "That toys, games and playthings be provided for the children to use in the playroom."[366]

More than a year later, this recommendation appeared not to have been followed. A September 13, 1948, report by social worker Lillian Romkey made note of the following, stemming from a recent visit she made to the Home:

> There is no clothing nor toys lying around. One wonders if the children just sit on the benches in the play room without moving because nothing is out of place. Of course there were no toys nor play materials around to be used.

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For programming, the Home often relied on outside, community resources. A May 16, 1966, *Study of the Nova Scotia Home for Colored Children*, authored by social worker Rosemary Rippon, Coordinator of Foster Home Services, noted:

> The children can take part in their school's extracurricular activities and there is a Cub Pack. All the children attended camp last year at Big Cove. Local service groups organize outings and parties for the children.[367]

A similar discussion of such external programming was contained in a 1969 brochure provided by the Home:

> For social activities, there is a playground and play pavilion on the grounds which are reasonably equipped. We have a small gymnasium in the basement

of the new wing [Cumming Annex]. Older girls and boys are members of CGIT groups, Cubs and Boy Scouts. If there are sufficient boys, we usually enter a team in minor league baseball. Service clubs, armed forces personnel, church and other groups often provide parties and picnics. During the summer the older boys are given a two-week holiday at the YMCA camp.[368]

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A letter dated January 5, 1959, from Ross Kinney to F.R. MacKinnon (Department of Child Welfare) asked for funds to permit the Home "to achieve the childcare standards as set forth by the Nova Scotia Department of Child Welfare." Relevant to programming, his letter to F.R. MacKinnon advised of the following:

- Nursery and pre-school children's Department is under standard
- There is not the room to permit normal laying out of the children's clothing and materials for present day activities
- There are not any provisions for a living room or a quiet place for the children to study, read or relax. Very difficult to take advantage of any training in music, crafts, etc.
- Space is inadequate for the different age groups, especially the boys, for indoor games and hobbies. One playroom 18' by 23' with a nine-foot ceiling for about four age groups.[369]

These accounts were confirmed and reflected in an April 1973 report by several students at the Maritime School of Social Work (supervised by their field instructor) who visited the Home for a study, and observed the following:

> There appears to be a lack of activity within the Home and we feel that this is an area that should be recognized. Playthings are at a premium due to breakage and the lack of suitable storing area.[370]

They were further highlighted by the Dwyer Report:

> There are no sports or recreational programs in operation at the Home. Facilities and equipment are available or easily attainable but lack of staff input

NSA, Bob Brooks 201905020

> or development. There are no games, educational arts or cultural programs in operation at this time. There are a number of rooms which could easily be converted and adapted for these purposes but again the lack of staff input, expertise and interest prohibits this development. Counselling and behavior modification programs are almost non-existent because of the lack of training, competence and experience of the staff in such areas.
>
> …
>
> Apart from a limited tutoring service, Sunday School, T.V. and a few games, there is very little programming provided for the children at the Home. The childrens' needs go far beyond the basics of food, clothing, shelter, cleanliness and religion. Therefore, there should be no excuse for not developing and operating creative resource programs particularly during evenings, weekends and holidays.[371]

The above referenced historic documentation, revealing a lack of appropriate recreation and programming opportunities for children in the Home from as early as the 1940s to the 1980s, aligned with the firsthand accounts of former residents who have shared their experiences with the Inquiry.

Former residents have reported to us that the lack of organized programming and activities led children in the Home to make their own recreation. We heard how children would leave the grounds of the Home (in groups or individually) to walk to nearby marshy lands ("Crowsland" as it was known) and/or a large rock in the woods ("the Rock" as it was affectionately known by former residents). The children reported escaping to entertain themselves for hours through activities like singing and picking berries.

The 1978 relocation to the new Home led to the provision of an outdoor basketball court, a baseball diamond, and a playground at the new Home site.

NSA, Bob Brooks 201905007

Children in the Home would occasionally go into the community for such activities as swimming, skating, and bowling. We learned that these sorts of offsite activities were not entirely capable of mitigating the daily boredom inflicted on former residents. Looking back, many former residents feel that the day-to-day boredom they experienced led to the frequency of physical fights and sexual activity among the residents.

Starting in the late 1970s, numerous female residents reported being required to perform sexual acts upon male staff in order to be allowed to participate in such programming. We heard from former residents how many such abuses took place in the Home's van when male staff would transport a former resident to extracurricular activities.

D. Children were harmed and abused:

The following discussion about abuse at the Home cannot be had without initially acknowledging that many former residents shared some favourable memories within the Home. For example, numerous former residents have expressed having lasting memories of staff who provided them with moments of care and concern in an otherwise difficult and stressful atmosphere.

However, every former resident who has shared their experience with us has expressed being exposed to various forms of abuse and neglect as a child within the Home.

Former residents over the decades at the "old Home" have vivid memories of bath time; of being required to wait in a long line before being placed in a bathtub with dirty, discoloured water. The bath water would not be changed during the mass bathing of up to 40 to 50 children consecutively. We heard how the bathwater was cold and soiled for those children near the end of the line. Several former residents described faeces floating in the bathwater. Objections to this by the children would be met with punishment by staff.

Toothbrushes were similarly shared. As late as the 1960s, former residents report sharing their toothbrush with as many as twelve other children (with hand soap being used as toothpaste).

Former residents of the early decades have shared with us the fact that they do not recall ever having their birthday celebrated or acknowledged in the Home. Many do not recall celebrating holidays like Christmas. While they were aware that it was Christmas due to the fundraising work of the Home's choir, many former residents do not recall celebrations extending to them as children.

Some former residents would be permitted to see their families over Christmas. We heard from former residents who recalled returning to the Home with gifts given to them by their families, only to have those gifts confiscated from them by staff.

As discussed earlier, many former residents shared being deprived their basic needs (food and warmth) as a form of punishment by staff. Forms of discipline included being sent to bed hungry and being locked outside with inadequate clothing. Moreover, it was reported to us that food was withheld by some staff unless the resident would comply with sexual acts. Food was used as a manipulative tool. For example, several female former residents shared how a male staff member asked them to meet in a stairwell and would provide them with cookies in exchange for sexual acts.

Former residents reported that staff of the Home would lock them in closets or dark rooms or the root cellar as forms of discipline. They reported being locked in these confined, dark spaces for indefinite periods. The length of such confinement was significant, ranging from hours to an entire day.

Former residents throughout the decades described being subjected to regular belittlement and disparaging comments by staff of the Home. Among the more frequent statements were phrases like, "you're stupid," "you'll never amount to anything," "you'll end up on your back like your mom," and "your family doesn't want you." Race-based name calling was described as commonplace.

Former residents have described staff calling them names depending on their personal characteristics, like "honkey," "cracker," "bushy hair," and "Chinaman."

There was a racial component to the treatment to which former residents were subjected. Almost every former resident reported to us that skin colour was an important consideration in the treatment a child received; that there was an informal racial hierarchy.

The darker a child's skin colour, the less likely he or she would receive favourable treatment. On the other end of the spectrum, Caucasian and Aboriginal former residents reported to us that they were subjected to worse conditions because of their skin colour.

Highlighting the importance skin colour played in the treatment of former residents was what was described to us by former residents as the "paper bag test." Former residents were taught to hold a paper bag to their face; the ideal skin tone was the one which most closely resembled the colour of the paper bag. It was perceived among former residents that those whose skin colour most matched the paper bag would receive more favourable treatment by staff. Staff made this well known to the children.

Former residents reported how the actions and behaviours of staff, in promoting a hierarchy of favouritism among the children, led to daily mistrust and uncertainty among residents. Children were encouraged and occasionally rewarded by staff for fighting the less-favoured residents.

We heard how favoured residents would be used by staff to both supervise ("tattle") and punish less-favoured residents.

Repeated by many former residents was also the regular scheme by staff, wherein they would force residents to name which staff they liked the best. In the face of these regular questions, former residents describe being placed in an untenable dilemma: they faced retribution by the staff who were not their named "favorite" in the form of physical abuse or the systematic withholding of privileges.

Former residents of the Home recalled witnessing or being subjected to regular fights between former residents. These fights were often actively encouraged by staff, who would orchestrate a dispute between residents. Or else staff would overtly demand that former residents fight each other. Refusal to comply to a demand to fight would be met with physical abuse by staff. It was felt by many that these orchestrated fights were done for the amusement of staff and to foster the prevalent atmosphere of distrust among residents; an atmosphere which exacerbated the stress already felt of living in the Home.

Residents of the 1940s, 50s, and 60s described being subjected to regular physical abuse by staff in the form of being slapped, punched, and hit with broom handles and switches (flexible branches off trees on the property). Residents during these decades consistently reported being required to go into the woods and pick out the switch with which they would be beaten.

Among the most common "offenses" attracting punishment throughout the decades was wetting the bed. This was a common occurrence among the children in the Home. Consistent bedwetting in late childhood is known to be a byproduct of trauma. Former residents who wet their beds described being subjected to harsh ridicule and physical abuse the following day.

Many former residents have reported to us that they were subjected to sexual abuse while at the Home. Such abuses were reported to have been inflicted as early as the late 1930s and continued into the late 1980s.

The sexual abuses described by former residents of the Home occurred on a continuum from above-clothes touching to forced oral sex to violent sexual assaults. Numerous former residents, both female and male, reported being vaginally or anally penetrated against their will by male staff. Many reported being subjected to regular sexual acts without consent. This sexual abuse was described by former residents to have continued through the 1980s.

Perpetrators were both male and female. Victims were male and female. Notable is that we heard from both male and female former residents that they were subjected to sexual abuse by female staff members. This seems to have been more prevalent up to the 1960s.

We heard from former residents that the sexual abuse was not only inflicted on them as teenagers; many described being victimized as young children.

We heard from former residents how the aforementioned bath time was associated with sexual abuse. Many reported inappropriate touching of their genitalia by staff while they were naked for bathing.

Significant sexual abuse was described as taking place at night. In the old Home building, where residents were housed in large dormitories, former residents relayed being woken in the night by staff and molested in their dorm bed or else taken to a more private area. In the new Home buildings, where residents were housed in semi-private rooms, the nighttime sexual abuse would often take place in an empty semiprivate room during evening rounds. Looking back, many former residents expressed feeling unsafe at nighttime, knowing that the Home was sparsely staffed only with those who would abuse them.

Numerous former residents have described how certain male staff would force them to engage in sexual acts with other residents in the presence of and under the direction of the staff. One former resident described this form of abuse as being part of an orchestrated "sex show."

The abuse was not restricted to the confines of the Home. Several female residents of the 1970s and 1980s have told us they were subjected to sexual abuses offsite by male staff responsible for driving the Home's van. The sexual abuse would take place in the back of the van. Sometimes male staff would offer drives in their personal cars, only to subject female residents to abuse offsite.

In addition to being subjected to sexual abuses, several female former residents have expressed that they were induced into prostitution directly through the involvement of a particular male staff member employed by the Home. One such resident describes this staff member picking her up in the Home's van after she ran away. When she expressed that she did not wish to return to the Home, he gave her another option by dropping her off at the apartment of the man who would soon become, as she describes, her "pimp."

This male staff was described as "offering" the female former resident an opportunity to escape the abuse she was experiencing at the Home by entering into prostitution. Not knowing what she was getting into, the former resident reported gladly being given the occasion to leave the Home.

Those former residents induced into prostitution out of the Home described how the systematic sexual abuses inflicted on them as children in the Home facilitated entry into that way of life. They shared feelings of being taught as children how their bodies were to be used for sexual pleasure. Looking back, they felt that the male staff who sexually abused them in the Home were manipulating their vulnerabilities by grooming them for prostitution and sexual exploitation.

Another female resident from the early 1980s separately has described how this same male staff member drove her to a nearby gas station and introduced her to a man who would lure her into prostitution and become her "pimp." Looking back, this former resident is confident that the

male staff set up this meeting in advance with the express purpose of luring her into prostitution.

We heard from several former residents in the 1980s how males from the nearby community would be "invited" into the Home by male staff. They would be introduced to female residents as "friends" of the staff. We heard how several former residents would ultimately be recruited into prostitution by these individuals.

Many former residents reported being sexually abused by other children in the Home. Some former residents have identified themselves as having sexually abused other children while resident in the Home. With much introspection in adulthood, they see this as a byproduct of learned behaviour, merely acting out on younger children what was being perpetrated on them by the adult staff. Nonetheless, extreme feelings of guilt remain.

The abuse described and experienced by former residents of the Home is reflected in historical documentation, albeit sparsely, starting as early as the 1950s. These records indicated a certain level of knowledge on the part of the care institutions responsible for the children they placed in the Home.

A March 22, 1954, letter from A.P. Hunt (of the Yarmouth County Children's Aid Society) to F.R. MacKinnon advises as follows:

> As I have received several other complaints about the children being abused and ill-treated at the Nova Scotia Colored Home. I feel it is time that a thorough investigation was made as to just what is going on there. (A girl our agency placed there) has a number of stripes on her back and also a bad bruise on her leg. The girl claims that she has been beaten with a switch and with a broom stick. She has also intimated that there is another little girl there who was beaten so badly the other day that she cried for mercy.[372]

On March 31, 1954, Mr. Hunt followed up on his earlier letter with another to F.R. MacKinnon, noting additional allegations of abuse being inflicted on children at the Home:

> Mr. XXX Halifax, who is known to your office, made a complaint with reference to the abuse received by his children from the Home. If you were to contact him he undoubtedly would verify this statement.[373]

A June 10, 1983, memo from Wilfred Jackson (the Home's executive director) to staff made note of the following:

> Please be aware that at the last meeting of the Board of Directors it was decided to launch an internal investigation into alleged child misuse and/or abuse in this Home.

> It appears, that one of the members of the Board of Directors has been approached by former residents about mistreatment while a resident in our Home.[374]

In late June of 1983, a former resident reported that a male staff member sexually assaulted her at the Home. She reported that this sexual assault happened following the drive back from a doctor's appointment. On the drive back to the Home, the employee driving her offered to give the resident a tour of the "old Home." She accepted. The June 24, 1983, incident report described the sexual assault that would follow:

> Both proceeded out of the car and into the Home. (Staff) gave (Resident) a tour of the building, stopped in the dorm to unzip (resident's) pants. (Resident) said "don't, you shouldn't be doing this", but (staff) continued and laid (resident) down on an old matress [sic], then pulled down his pants. Both engaged in sexual intercourse. Later they left the building and returned to the Home. In the car (staff) told (resident) not to say anything, as he would get into a lot of trouble.

The resident reported the sexual assault to others in the Home. An internal investigation was conducted which substantiated the sexual assault. Records show that the staff member resigned from the Home. Despite knowledge of the assault, the former resident was never contacted by the police.[375]

E. Children had nowhere to turn for help:

Former residents of the Home have a consistently shared experience of living in an environment where abuse was widespread. Aggravating the harms were feelings of isolation and the perceived indifference of those ultimately responsible for their well-being.

Former residents report the Home was poorly supervised. For example, we heard how certain children would sneak off to the aforementioned "Crowsland" or "the Rock" in the woods after breakfast and not return until dinner. And their day-long absence would seemingly go unnoticed by staff.

Many former residents reported how staff were indifferent about their school attendance after the H.G. Bauld Memorial School was closed. Homework was not encouraged. In this environment, we heard how many children simply stopped attending, or caring about, school.

A tragic example of the poor supervision provided by staff was an experience relayed to us by several former residents in the late 1960s. They report how older residents orchestrated an assault on a younger boy, where, for a lengthy period, children were encouraged to throw boots and shoes at him as he lay in a corner. One former resident told us that he left the room to scream for staff to come to the boy's aid. They did not come.

It was relayed to us that after a lengthy period of assault, the boy became motionless. Only then did supervising staff enter the room. The boy was taken to hospital. The former residents were informed a few days later that he had passed away. Indeed, this deceased boy's sister confirmed to the Inquiry that he passed away while resident at the Home. In the face of these firsthand witness accounts, it was surprising that we found no documentation of this incident or the boy's death.

The perceived indifference to the atmosphere of abuse extended outside of the Home as well.

Many former residents have shared with us how they consistently and routinely ran away from the Home. This is uniform across the various decades. They described being found by staff driving around (or by police officers) and returned to the Home. Some reported to us of having told police officers of the abuse being inflicted on them, but to no avail. They would be returned, and their situation would not change despite having the strength to report it to authorities.

Similarly uniform are the reports of former residents throughout the decades of not being visited in the Home by their child care workers who placed them there. Many reported being simply dropped off by their worker, and never seeing that person again. Others say that if a worker would occasionally visit, questioning about their well-being would take place in the presence of staff of the Home. For fear of retribution by staff, these former residents described being scared to disclose the abuse around them.

In short, former residents uniformly feel that they were neglected by the people in the Home and the people who placed them in the Home. They had nobody to whom they could turn for much-needed help and comfort, or to report the systemic abuses being inflicted on children in the Home.

F. Children felt isolated and disconnected:

Many former residents have expressed having feelings of isolation while living at the Home. They felt isolated from their families and the broader community. Many former residents expressed that staff within the Home would often isolate them from siblings who entered the Home with them. We heard frustrations of how interactions among siblings was actively discouraged or, at best, not supported.

The Home's location itself was isolated. This meant that the children's opportunities for interaction with their families and the community was limited. One former resident in the late 1940s described the isolation like living on an island.

Former residents have shared with us that visits from family members were discouraged. They were permitted occasional letters, telephone calls, and sometimes brief visits. Former residents report that these contacts with outside family members were usually supervised by staff.

The children rarely went out into the Black community except to attend Sunday worship. If

there were recreational opportunities, they would more likely involve interaction with Caucasian populations than with the Black community.

Former residents who resided in the "old Home" up to the 1960s described being "loaned out" to households in the nearby community (who they believed were family and friends of staff). On such days, they would be required to do such tasks as cleaning house, serving food, or working on the farm. They would receive no remuneration for performing these tasks.

The May 16, 1966, Rippon Report noted concerns over isolation of the children. In noting that children attended church once a month on average, Ms. Rippon writes:

> I do not feel that this is often enough, particularly for the children who attend the H.G. Bauld Memorial school on the premises, where little contact is had with the community outside the school.[376]

The H.G. Bauld Memorial School closed in 1969. Before its closing, residents in the Home lived and attended school on the remote site of the Home. Their circle of contacts all resided or worked on the site of the Home.

After its closing, children in the Home began to attend public school. While attendance at public school would lessen the physical isolation of children in the Home, it magnified the psychological isolation they felt. Almost uniformly, former residents reported to us that they were stigmatized in public school as a "Home Kid" by other children and teachers alike. They reported feeling not welcomed in public school. Few made friends outside of other former residents.

Some former residents reported attending public school with evident physical injuries (such as bruising) and that they were never questioned by teachers about the source of the bruising. To some, this added to their feelings of isolation.

Former residents shared with us how the psychological isolation from their teachers and peers in public school resulted in an indifference towards schooling. Many stopped attending.

That the closing of the H. G. Bauld Memorial School in 1969 did not end the isolation is supported by a 1973 study from students at the Maritime School of Social Work (supervised by their field instructor) who visited the Home. They observed the seclusion of children in the Home from their community and wrote in their report:

> More involvement with the community is seen as being essential – and involvement with the Black community as being imperative. By community we mean not only their immediate area, but also the larger community in which these children live.[377]

G. Children felt their experiences were behind a facade:

NSA, Bob Brooks

Telethon

A strong theme in the experiences relayed by former residents was a feeling that they were required by staff to "put on a show" for the eyes of the general public.

The annual telethon served as a symbolic example of this. As discussed earlier, the Home solicited funds from the public through an annual broadcast. Starting in the 1930s and ending in the 2000s, former residents would be required annually to dress up and perform songs over a radio, and eventually T.V., broadcast. They were made aware of the importance of their performance and the expectation was that they smile and outwardly appear cheerful and well cared for. Former residents have reported that if they did not partake fully in the outward facade, they would be punished later at the Home — usually by way of a physical beating.

This fundraising broadcast remains in the memories of children required to participate in it, due to the dichotomy of their outward happy appearance and inside turmoil resulting from residing in the Home. In other words, they reported of crying on the inside as they smiled on the outside.

Former residents reported feeling that the fundraising broadcast was but an example of the Home's efforts to mask the actual conditions in which children were living. We heard how if staff were made aware of outside visitors, children would receive extra care that morning in terms of clean clothes and food. They would greet visitors in a hall and would be required to smile and appear to be in good cheer.

Into the 1960s, prospectus foster parents would attend the Home sometimes in search of a child. Residents of the Home described lining the walls, in their best clothes, while the visitors would carefully select whom they wished to take home. This was especially traumatizing for siblings who risked, and indeed sometimes experienced, being split from each other in an instant.

NSA, Bob Brooks

Telethon

H. Children were resilient:

The experiences relayed to us by children formerly placed in the Home were uniformly traumatic. We cannot conclude a discussion on these experiences without commenting and reflecting on the remarkable resilience shown by children in the face of a highly distressing environment.

We heard stories of care and concern amongst former residents. Former residents reported sacrificing their own well-being to protect other children. Some would be beaten for refusing to fight other residents. Some would risk stealing food to share with others. We heard how former residents would attempt to deflect known sexual abusers from likely targets by putting themselves in harm's way.

These are some of the few survival strategies described by former residents. We want to acknowledge the strength and bravery, care, and concern shown by the former residents to each other. Despite the abuse and neglect which encircled them, children of the Home seemingly found strength in unity.

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[66] *An Act to Incorporate the Nova Scotia Home for Colored Children*, SNS, 1915, Chapter 107

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[68] *An Act to Incorporate the Nova Scotia Home for Colored Children*, SNS, 1915, Chapter 107, at ss. 2.

[69] *An Act to Incorporate the Nova Scotia Home for Colored Children*, SNS, 1915, Chapter 107, at ss. 2.

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[161] NSA, RG 72 Vol. 198 File 6, "Nova Scotia Home for Colored Children", Doc 67.1. Letter from Board President Cumming to F.R. MacKinnon, Director of Child Welfare, October 6, 1948.

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CHAPTER FOUR

The Journey to Light and the Road to the Restorative Inquiry

Introduction and Timeline

Restorative Inquiry, courtesy Communications Nova Scotia

Candles, Journey to Light

The Restorative Inquiry for the Nova Scotia Home for Colored Children is part of (and resulted from) a larger and longer story of seeking a just response to the harm and abuse experienced at the Home. It has been a journey that the former residents have called the "journey to light." This public journey out of silence and darkness towards acknowledgement, understanding, and light began in the late 1990s, with revelations from former residents about their experiences in the Home. The former residents' commitment and vision of this journey to seek a just response shaped the design, approach, and implementation of the Restorative Inquiry.

The Inquiry was mandated to:

- examine the experience of the Nova Scotia Home for Colored Children (NSHCC) as part of the history and legacy of systemic and institutionalized racism, both historic and current;
- understand the experiences of former residents within the NSHCC and the legacy and impact of these experiences for former residents, their families and communities; and
- consider what they might reveal about issues of institutionalized child abuse and prevention and protection in future.

Chapter 3 reviewed the relevant history of the institution from its founding through to its efforts to preserve its place as a historic site in Nova Scotia. The chapter concluded by looking behind the vision and operations of the Home and its broader significance to understanding residents' experiences. While there is certainly evidence in the records related to the Home to suggest concerns with the quality of care provided, the voices and experiences of residents were generally absent from the historical records related to governance and operations. We came to hear their experiences much later when they shared them as adults. In conjunction with the Home's efforts to achieve heritage status, the media reached out to ask former residents about their memories of the Home. What they heard was not what they expected for an institution that had held such a place of pride and achievement in Nova Scotia for so many decades. An understanding of the experience of former residents would not be complete without attention to the more recent history of their efforts to bring their experiences to light and seek a just response. This chapter is focused on the journey to light from the first public revelations about the harms and abuse through to the establishment of this public inquiry into the matter.

It is helpful to provide a general timeline of events leading up to and including the establishment of the Restorative Inquiry. A more detailed discussion of responses to abuse claims follows the timeline.

Timeline

1990 1994 1998 2001 2004 2007 2011 2012 2013 2014 2015 2016

The Home began research to make application for heritage status.

1994

Share & Care: the Story of the Nova Scotia Home for Colored Children published by the Home (in advance of the institution's 75th anniversary).

1998

Application for heritage status considered by Halifax council in June. Acquired sufficient points to be recommended, "extra points were given for the significant Black achievement with respect to this property" but no recommendation made because of the state of repair of the Home building at the time. Application promoted media to reach out to former residents seeking their view.

September — Former resident Tony Smith and another former resident anonymously shared publicly their experience of abuse in the Home.

Several former residents contacted police regarding their abuse in the Home (in HRM, Digby, and Truro).

2001

First individual civil actions filed by former residents against the NSHCC, various children's aid societies, and the Government of Nova Scotia.

2004

December — Total of 67 individual civil claims had been filed by former residents.

2007

Nova Scotia passes *Class Proceedings Act* enabling class action claims in Nova Scotia.

2011

Class action filed on behalf of former residents of the NSHCC against the Province and the NSHCC.

2012

February — Application for certification of class action claim filed.

March — Police establish special investigative team to look into allegations of abuse at the NSHCC. They ask former residents to come forward if they have information. Former residents went to police stations across the country seeking criminal investigation into abuse allegations; over 40 complaints received.

VOICES (Victims of Institutional Child Exploitation Society) established by former residents and initially led by Tony Smith, Gerry Morrison, Tracy Dorrington-Skinner, Ross Anderson, Tamarah Clarke-Grant (with the support of Wagners Law Firm).

October — First reunion of former residents held at Emmanuel Baptist Church in Upper Hammonds Plains. Former residents (including elders) empower VOICES to advocate justice for former residents.

November 3 — *The Throwaway Children* documentary about abuse in the NSHCC aired on CTV program *W5*.

December 12 — Court certified class proceeding in *Elwin v. Nova Scotia Home for Colored Children*, 2013 NSSC 411.

December 13 — RCMP and Halifax Regional Police issue a statement that their investigation into the abuse allegations at the NSHCC is concluded and no charges will be laid.

2013

April — $5 million settlement reached with the NSHCC and former residents

May 9 — Provincial Government (NDP) established "Expert Independent Panel" over objections of former residents who sought public inquiry. Robert Wright appointed to make recommendations for response to NSHCC.

October 8 — Liberal Government elected in Nova Scotia. Premier Elect Stephen McNeil made election night commitment to do right by the former residents of the Home. "I have made a commitment that I would be responding in a way to the Home for Colored Children with a full public inquiry."

November — Premier McNeil met with former residents leading VOICES following the election to consider a plan to move forward to respond to the abuses at the NSHCC. Former residents indicate they are seeking a holistic response that takes a restorative approach to resolving the legal claims and to a public inquiry to deal with the broader issues and impacts.

2014

June — VOICES met with Government officials to name team to design restorative public inquiry.

July 4 — Commitment to a public inquiry that would take a restorative approach.

Settlement of class action claim announced (tentative deal June 2014; final settlement announced August 8, 2014). Included commitment to restorative approach to settlement distribution.

September — First meeting (retreat) Ujima Design Team (met weekly following).

October 14 — Government apology given by Premier McNeil to former residents of the NSHCC and to the African Nova Scotian community for the harms and abuses they experienced and for the legacies and impacts of systemic racism in Nova Scotia.

December — Ujima Design Team 2nd retreat (weekly meetings continued following).

2015

February — Deadline for former residents to apply for compensation under the class action settlement agreement.

April 14 — Terms of Reference completed Ujima Design Team.

May 11 — *Amendments to Public Inquiry Act* introduced in the legislature in response to request from Inquiry Design Team.

June 12 – Restorative Inquiry launched. Apology offered on behalf of the NSHCC Board leadership.

June – Interim Council of Parties established to set up Restorative Inquiry.

October — Independent assessment meetings with former residents begun as part of the class action settlement.

November 2 – Council of Parties appointed. Restorative Inquiry begins work.

November — *Amendments to Public Inquiry Act* (introduced in May) passed into law.

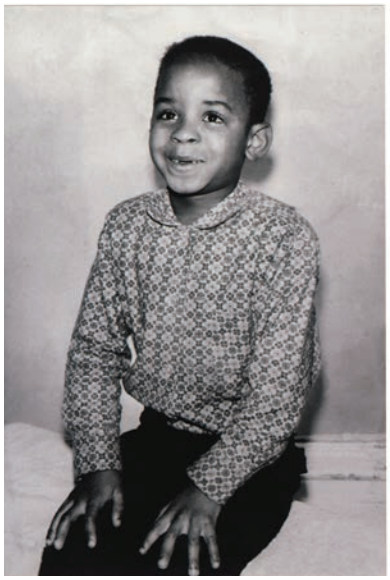
2016

February 25 – Independent assessment process for former residents (part of class action settlement) concludes.

June — Former residents received decision letters from independent assessment process.

First Revelations and VOICES

In 1998, the Nova Scotia Home for Colored Children's application for heritage status was considered by the Halifax Regional Council. As part of the media coverage of the application, *The Chronicle Herald* contacted former residents of the Home to get their perspective on the Home and its historical significance. One of the former residents contacted was Tony Smith, who would ultimately co-found the former resident advocacy group Victims of Institutional Child Exploitation Society (VOICES) and become the co-chair of this Restorative Inquiry. Mr. Smith recounted that he thought about how to respond to the reporter's question. He, like other former residents, had stayed silent about his experience in the Home since leaving at the age of eight. He knew breaking that silence would be difficult for him and also for his family. The pride the community had in the Home was reflected in the application for heritage status and the recent publication of *Share & Care: the Story of the Nova Scotia Home for Colored Children*, celebrating the vision and achievements of the Home ahead of its 75th anniversary. Yet Mr. Smith felt compelled to speak, to follow through with a promise he made to himself as a boy. Mr. Smith had a best friend who was a fellow resident who died following an incident of abuse in the Home. Mr. Smith recalls being warned not to say anything about the incident to anyone. He swore to himself that one day he would tell his friend's story. For this reason, Mr. Smith sought permission from his own family to tell his story, and, with their blessing, he told the reporter that he did not mind telling his story, but it might not be the one the reporter expected to hear.



courtesy of the Langford family

Anthony Langford

The Sunday Herald ran his story on September 13, 1998, along with the story of another former resident, called by the name "Peter" in the article, who came forward with similar accounts of harm and abuse during his time at the Home. Peter said of his experience in the Home: "I would use the word 'torture' and I use that word because this was extreme punishment and violence."[1] Mr. Smith was clear about why he came forward: he wanted his friend's story told and he wanted recognition and acknowledgement of the wrongs that were done to residents in the Home. Mr. Smith's and "Peter's" stories prompted other former residents to come forward. In the coming months, Mr. Smith and several others would contact police regarding their experiences. On November 1, 1998, *The Chronicle Herald* printed an article stating the RCMP had received a complaint about at least one historic incident in the Home, and that former residents had also filed complaints with the Provincial departments of Justice and Community Services. One of the former residents who came forward to police in 1998, Shirley Melanson, reflected on why

she came forward. She reported that, "[n]ear the end of [her] interview with Cst. Brooks, the RCMP asked [her] point blank, 'What would you like to see happen?' 'I want to see changes' was [her] reply. 'Things need to change.' "[2] As discussed later in this chapter, the police did not proceed with a formal investigation of the allegations at the time. Police would later (2012) establish an investigative team to deal with allegations of abuse at the Home.

Individual former residents began to file civil suits later in 2001. They were seeking recognition for the harms and abuse suffered while living at the Home. Robert Borden was the first to file a civil claim, on March 1, 2001. As media coverage at the time reported: "Mr. Borden acknowledged compensation would be welcome — he hopes to go back to school — but said what he really needs is for his story to be validated by the authorities. 'What I want is for them to admit they were wrong,' he said quietly, 'and that they knew about it.' "[3] Several other individual civil claims were filed in the next 18 months. Tracy Dorrington-Skinner was the second to file a civil action, on December 18, 2001; Tony Smith became the third to file, on May 30, 2002; Gifford Farmer filed on June 10, 2002; and sisters Krista Borden and Lizette Dorrington filed on June 24, 2002. By December 2004, there were 67 individual civil claims filed. Most individual claims were made against the Nova Scotia Home for Colored Children, the Province, and the applicable children's aid societies that made the placement at the Home. At the time, Nova Scotia did not allow class action suits. As a result, individual former residents had to pursue their cases independent of one another. It was not until 2007, with the introduction of the *Class Proceedings Act*, that class action lawsuits could be filed in Nova Scotia. In 2011, Wagners Law Firm filed a class action suit against the Home for Colored Children on behalf of three plaintiffs who were former residents. The Province of Nova Scotia was subsequently added as a defendant.

Robert Borden
courtesy of *W5, The Throwaway Children*

Former residents began working together more closely. Several former residents formed the Victims of Institutional Child Exploitation Society (VOICES), which was formalized through a memorandum of association in April 2012. Its stated objectives was, among other things:

> To provide a voice for victims of institutional child exploitation and abuse in Nova Scotia;
>
> To act as a source of comfort and support to victims of institutional child exploitation and abuse in Nova Scotia;
>
> To provide a vehicle for sharing with victims of abuse and with the public;
>
> To act as an advocate for greater control and monitoring

of child institutions in Nova Scotia;

To act as an advocate and resource for victims of institutional child exploitation and abuse in Nova Scotia;

VOICES held a reunion for former residents in the summer of 2012 at Emmanuel Baptist Church in Upper Hammonds Plains. It was here that former residents first committed to support one another on a "journey to light" — moving out of the shadows of silence, secrecy, and shame, and sharing their truth in the open. As the class action suit proceeded through the courts, another series of media reports appeared in 2012. A documentary on the Home called *The Throwaway Children* also aired on the national CTV program *W5* on November 3, 2012, just ahead of the certification hearing for the class action suit. *W5* indicated this was their most-watched episode and it brought the stories of former residents prominently into the public eye. As a result, more former residents started to come forward to share their stories. In the weeks following, Wagners Law Firm reported a significant increase in calls from former residents.

The reunion brought together many former residents of the Home from across the generations. Many did not know one another but were connected by their common experience of living at the Home. Many of the former residents had never shared their experiences from the Home with others. Gathering together with other former residents provided a safe environment in which to share their experiences. Those gathered determined that they wanted their experiences known — that they wanted their voices to be heard — so that it might make a difference for children in care now and in the future. They committed to going forward on the journey to bring what happened to them into the light — to seek justice. The former residents at this reunion used Sankofa as a symbol of their journey forward. The wood-carved image of a bird was their talking piece for the gathering. It signified the importance of looking back at what happened in the past in order to fetch what they needed to understand in order to journey forward into the future. They promised one another to do this in a way that would ensure the voices of former residents were heard, would do no further harm, and would leave no one behind. The group gathered gave VOICES a mandate to take up this journey to light and advocate on their behalf. The mandate from this first reunion was foundational to the approach and work that followed.

Lawyers for the former residents were concerned that the journey to light former residents sought may not be achieved through the traditional legal process of civil litigation or even a public inquiry. In support of the former residents' desire to find a path forward consistent with their commitments to each other, their lawyers recommended that VOICES meet with a local law professor who had

experience and expertise in restorative justice and truth and reconciliation processes. Former residents met with Jennifer Llewellyn from the Schulich School of Law in 2012 and shared their experiences and their hopes for their journey to light. Professor Llewellyn suggested that their vision resonated with the idea of restorative justice and agreed to support them in their journey to advocate for, and design a response to, their abuse that would realize this vision of justice.

The first revelations by former residents brought public attention and triggered formal and informal responses from the Home, the African Nova Scotian community, and the Government.

Home and Community Response

It is important to place the Home's response to former residents' revelations regarding the harm and abuse in the context of the historical and ongoing relationship with the community and with the Government as part of the child welfare system in Nova Scotia. As indicated in Chapter 3, these relationships had a profound impact on the operations of the Home and to the conditions and circumstances that contributed to its failure to provide adequate care and protection to residents. The relationships continued to frame the Home's response to harm and abuse claims. Their response also reflected the Board's enduring concern to protect and advance the future of the institution. In many ways, the disconnect between the vision and mission of the Home as an institution from the operational work of caring for children is even more evident during this period. The patterns of governing and operating the Home throughout its history continue to inform its response to the claims brought forth by former residents and their efforts to seek justice.

The first response from anyone affiliated with the Home came in the original newspaper article on September 13, 1998. *The Chronicle Herald* quoted Rev. Donald Fairfax (who had a long-time association with the Home, which began with him teaching Sunday school there in 1939, and then as clergy attending to the Home in the 1960s). He expressed that he was surprised to hear about alleged abuse and it was the first time anything like this had been mentioned to him. The article reported he said, "I'm very disturbed to hear this, and I personally would like to talk to the men who have said this, because these kinds of things need to be talked about," … "Certainly both of these men can't be speaking the untruth, and as dreadful as it is, I think you have to give them some consideration."[4] He did go on to recall one particular female staff from the 60s who was especially cruel and, he thought, capable of just about anything. He indicated he was relieved when he heard that she left.

The Home Board reacted swiftly in the days and weeks following the first public revelations by former residents. On September 15, 1998, President of the Board Michael Mansfield wrote to all Board members and honorary Board members and attached *The Sunday Herald* article. The letter read in part:

> In light of our 77-year history of caring for youths from all walks of life, this is a very damaging blow to our very existence.
>
> Until the story appeared, we were totally unaware of these abuse allegations, and sickened to read of the graphic details.
>
> It is most unfortunate that these two young men chose to talk to the media, rather than addressing their concerns with the management of the Home. Surely, if there is any substance to their stories, then counseling could have been arranged for the individuals and the perpetrators, alike, and the healing process begun.
>
> At this point, we have advised our legal counsel of this situation, and have asked the Department of Community Services for their advice in handling allegations of abuse, based upon their experience with the Provincial Youth Centres.
>
> Rather than taking the risks of individual opinions, we would ask that all enquires be directed to me…[5]

The Board minutes of September 15, 1998, reflect the Board's initial response to the revelations of former residents two days earlier. Under the heading "Newspaper Article — Untimely Item," the minutes record that "[m]any questions and concerns were aired by the Board members."

The Chair of the Board indicated that he had been in touch with the regional administrator from the Department of Community Services and was assured of "understanding, stating that this should in no way jeopardize their involvement with the Home but as a Board it is up to us how we want to respond to something like this."[6] Board members expressed concern to secure some written assurance from the Department that this would not affect future placements at the Home. There were also questions raised about whether the claims made in the report were isolated or more widespread and whether there were records from this period that the Board should review. The executive director indicated that any records that might exist from this period would be sealed. The chair informed the Board that they had consulted legal counsel and prepared a public statement. The Board reviewed the statement and determined that the Board chair should be the only spokesperson on the matter at that time. The press release reflected similar sentiments to those contained in the letter to the Board members earlier that day. In addition, it noted:

> We agree with the two gentlemen [who alleged the abuse] that none of these allegations of the 1960s could have been made known to the Administration as this Home has come to be known for its caring and nurturing of youths throughout its long existence.
>
> As the only institution of its kind in all of CANADA, this Home stood proudly in spite of the hardships of the black population and through the spiritual leadership of the A.U.B.A. and the sacrifices of its people.[7]

The original draft of the press release attached to the Board minutes revealed concern with the motive of the media in covering this story. It suggested that the Herald sought out those who might not have positive memories of the Home to counter the fact the announcement of heritage approval for the old Home site was carried in the rival paper *The Daily News*.

There was significant consideration of how to respond in order to protect the reputation of the Home. In this regard, the Board read a letter from a former Board member and his suggestion for the creation of a "Friends of the Home" group to share positive messages about the Home.

> Last night I read with horror the article that graced the front page of the *Sunday Halifax Herald*. This story about a "Legacy of Abuse" is most unfortunate. As to what components of the article are fact and what is literary license is not clear however what is clear is that this type of story will definitely hurt the image of The Home, an organization I hold quite dear. I wish to offer the following plan for consideration by the board.
>
> The plan would be such that former residents of The Home who actually enjoyed their stay come forward and identify themselves as "Friends of the Home". To this group former board members who served in any of the various capacities[sic] come forth as well as members of Friends of The Home. This group/organization would be a visible reminder of the many people for whom The Home has been a positive experience.[8]

The Board was in favour of such a group but thought it wise to ask that it be established by someone outside of the Board.

In the weeks that followed, the Herald ran further stories about the abuse allegations. The executive director's report at the next Board meeting on October 20, 1998, reflects the immediate actions taken in response to the first allegations regarding abuse in the 1950–60s. Up to that point (in the month following the allegations), the executive director reports that he:

- informed honorary members;
- obtained a legal opinion;
- contracted a communications firm to offer recommendations;
- contacted former Board members about establishing the Friends of the Home group;
- liaised with the regional director of Department of Community Services; and
- met with MLA Yvonne Atwell to discuss the situation.[9]

Ms. Atwell was the MLA for Preston at the time and supportive of the Home and its bid for heritage status. When asked about the allegations by the media, she emphasized that they were "just allegations at this point," but it was important that they be investigated according to whatever was the proper protocol for such things. Consistent with the reaction of others who had close ties to the Home, she expressed her belief in the value and success of the Home. She said, "[m]y understanding of the home for the past 75 years has been a very positive one in the community. Many people who lived in the Home, and I have heard from a few of them, felt that it was their own home and these people are quite upset by the allegations." She indicated that the allegations should not affect plans to consider the Home for heritage status.

> They should have heritage status, absolutely, the home is an icon in the community… My understanding has been that it has always been a good home. I've known several people who worked in the home even as far back as when I was a little girl living in the community and I never heard that there was a problem other than what you would have in a normal setting in that you discipline children when you are supposed to.[10]

A Situation Analysis prepared for the NSHCC by the communications consultants firm Shandwick Canada Inc. was shared at the October 20, 1998, meeting and the Board approved the recommended approach and actions. The report identified the "key issues" of concern arising from the allegation as this:

> The community and supporters of the Home have been hurt by the allegations and the fact that the credibility of home has been questioned. There is also concern that damage to the Home's reputation may hurt the upcoming fundraiser.[11]

In response to these key issues, the firm recommended a protective and, perhaps, defensive approach. The Home adopted these recommendations offered by the communications consultant. The objectives of the response made some mention of expressing care and concern for the former residents who came forward. However, it came as part of a strategy and tactics focused on defending the reputation and protecting the future of the institution. The objectives identified were:

> To protect the reputation and credibility of the Home against unfounded allegations.
>
> To demonstrate concern and care for individuals who may have had negative experiences at the Home.
>
> To ensure that proper steps are in place to protect the Home's current residents from any harm.

The tactics recommended included:

> Asking Board members to be alert for rumours in the community about allegations of abuse and possible appeals for compensation.
>
> Consider steps that can be taken, should they be necessary. For example:
>
> - Stage a community rally, featuring former residents relating their positive experiences to demonstrate the concern of the community both for the Home and for those who may have been hurt there;
> - Formalize the Friends of the Home group;
> - Release a public statement from the Board of Directors recognizing the negative allegations, but reflecting positive support for the Home;
> - Maintain the current communication and open relationship with the Nova Scotia Department of Community Services; and
> - Ensure current conditions at the Home are above question.

One of the first steps recommended to the Home was to have a small group from the Board meet with the managing editor of the Herald to inquire about the motive in covering this story, especially given that abuse in institutions is not uncommon.

The coming weeks would see more abuse allegations. The executive director's report to the Board on November 10, 1998, offered the following recap of events:

> **Abuse Allegations continue.** Ms. Louise Surrette, Columnist with the Chronicle Herald, continued her assault on the Nova Scotia Home for Colored Children, and its alleged maltreatment of residents throughout the 1950s and the 1960s. Immediately following our last meeting, the President, Mr. Mansfield, and I met with the Managing Editor of the Herald, to express the Home's concern over these articles, and the effect it was having on the Home as well as local residents. We were assured that there are no premeditation involved, and that the writer had stumbled onto the story while gathering information for the heritage article. To balance the reporting their agreed to print the positive side of any former residents, if they wished to tell their stories. Mr. Clinton David and Mr. Lou Dixon came forward and presented a caring picture of life at the Home during this time. However, alongside of their article appeared the headlines, "Complaints filed with the RCMP, Province".
>
> **Shandwick Communications**, acting on our behalf, reviewed the series of articles, again, and have prepared a statement for the President, our spokesperson, in the event that other media outlets should begin to show interest in these newspaper articles.

> We have made an effort to keep our **Honourary Members** up to date, on these allegations, since many of them were quite actively involved with the Home during the period of time, under consideration. One of these Honourary Members, and his wife have come forward to suggest that the Home consider setting up an external "Panel of Inquiry" that would receive any/all stories of treatment while a resident at the Home. However, our communications consultants, and our lawyer, suggest that this route could "open the flood gates" and cost the Home dearly, for financial compensation.[12]

Despite the Board's concerns regarding the potential impact of the allegations and coverage for fundraising at the annual telethon on December 13, 1998, the Home exceeded its goal of $50,000 that year. There is no further mention or discussion of the allegations in the record of Board minutes until April 20, 1999, when they note a visit by two RCMP constables regarding the allegations of Tony Smith. The minutes indicated that RCMP said the allegations remained unsubstantiated but that they would keep meeting with Mr. Smith.

The official minutes of the Board are silent about the allegations from this point until January of 2001 and the news coverage that a former resident had filed a Notice of Intended Action regarding abuse in the Home. The executive director's report to the Board for the January 9, 2001, meeting explained:

> A few articles in the local newspapers, alleging child abuse in the 1950s brought an otherwise joyful Christmas holiday to an abrupt close. The two local newspapers called the Home to inquire about a "Notice of Intended Action" that was filed in the Supreme Court of Nova Scotia, by a former resident against the Attorney General of Nova Scotia, The Nova Scotia Home for Colored Children, The Department of Community Services and former foster parents. Mr. Mansfield, President responded to these questions, as per our protocol.
>
> After sharing these articles with the Board of Directors, Mr. Mansfield and I, met with our legal consultants, at McInnis Cooper. On their [advice], I have notified our insurers, King Insurance and the Regional Administrator, Department of Community Services, to assess their support roles, in this pending case. The Law Firm advised us that these cases usually extend 2 years or more, and are very costly.
>
> In light of the above claims, it is important to review the Home's name change strategies, and to take a second look at the creation of a separate Foundation, as a protective mechanism for the Home's [assets].[13]

In the Board's discussion of the report, members expressed concerned about the liability of the Board and decided that they needed to stay quiet and make no comment while this was in the courts. The Board minutes record a discussion of whether "there is some way to put this to rest? The Court case may deter people; however, we do not know if this is the only case, at this stage, it is not possible to know the outcome."[14] They also discussed the proposal for a foundation and name change in response to the allegations. It was noted that: "The system seems to have the upper hand, as they set the criteria, they could make the decision to close the Home, we should have a contingency plan. Our land assets get in the way of negotiations with Community Services. How can this all work in our best interest."[15] It was suggested the Board have a planning day to establish a foundation. In February 2001, the Board met to develop a strategic plan and establishing a foundation was a central part of that discussion.[16]

By March 2001, the first law suit had been filed and the Board decided that it must approach Government "so as to build some defense." The minutes also reflect that the chair and executive director met with the MLA for Preston, David Hendsbee, regarding legal costs and were awaiting the Government's response.[17]

In the ensuing months, more law suits were filed and media coverage continued to profile the allegations and experiences of former residents in the Home. The president's message to the newly elected Board of the Home on June 28, 2001, captured the Home's response over the preceding year and their approach moving forward.

> We have had to deal with allegations of abuse directed towards our organization. The media chose to provide it's [sic] readership with "Sensationalistic" campaign of very negative coverage. Throughout this barrage of adverse publicity, we have managed to remain objective and non reactionary in any response to this situation. We are committed to remaining professional in our approach, as it relates to these matters, and have engaged the resources of our very reputable legal firm. This matter will be dealt with in a thorough and proficient matter.[18]

The Home's response to the law suits as they were filed, and throughout the litigation and settlement processes, would continue in this manner — guided by legal counsel and fully engaged in the adversarial process to examine and defend the claims. Its legal response was significantly shaped by the approach of the Government as a co-defendant. The nature and impact of the legal strategy will be discussed further on as we review the Government's response.

In a discussion paper prepared for the November 2002 Board meeting on the idea of a foundation, one of the objectives was to "remove assets, such as land and investments, from the balance sheet, so that these assets are not used to fund operations."[19] Draft bylaws were prepared[20] but the application was eventually rejected in 2004 as the name "Nova Scotia Home Foundation"

was too general and required "a descriptive element to indicate the type of business to be carried out by the company."[21] By December 2004, it was thought that the "outstanding lawsuit might present a legal impediment to move assets into a Foundation."[22]

While the Home's bid for heritage status in 1998 was a catalyst for former residents coming forward, it was not until 2006 as part of a renewed effort that two recommendations were brought to the Board[23]:

- Subdivide the old Home site property to include the Henry G. Bauld Memorial Centre, the old Home, and the cottage
- Apply for registered heritage status on the old Home "subdivided site" comprising approximately seven acres

In August 2006 the Board met with the HRM Heritage Property Planner to revisit the NSHCC's initial application for registered heritage status for the original orphanage building. The first application several years earlier had been denied. It was now thought that the additional facts would allow the NSHCC to qualify for heritage status "while maintaining the best interests of the Home." The application did not seem to proceed further owing to the state of repair of the old Home building.

The Board also ultimately considered a name change. A discussion paper was developed for the November 2002 Board meeting.[24] The paper acknowledged that "any attempt to change the name must be considered tampering with a piece of history" but the real question is "if such action is in the best interest of the NHSCC?" The following points were considered:

- Is a name change of any real benefit or significance?
- Can a new name better reflect the goals and objectives of the Home?
- Is it possible a name review may negatively impact the Home in such a way to suggest that the process be abandoned altogether?

The Board's reflection on these points was impacted by the fact that the NSHCC was "under attack" and facing allegations.[25] The Board agreed, after a protracted discussion in November 2003, that the Nova Scotia Home for Colored Children would be referred to as "The Nova Scotia Home."[26]

As the legal process proceeded, the African Nova Scotian community also responded to the allegations and the ongoing law suits. The community's efforts in this regard reflect the continuing connection and commitment of the community to the Home and its historical significance for African Nova Scotians.

One such example was the emergence of the African Nova Scotian Leadership Think Tank (Think Tank). Started in December 2012, the group described themselves as "a coalition of African Nova Scotian organizations and Community Consultants who are working together to try to facilitate a process that will lead to a mediated solution regarding the allegations against the NSHCC." The group does not seem to have remained active much beyond its advocacy with the NDP Government in 2013. There are no available records of the group's membership. Based on information provided to former residents at a meeting with members of the group, and the Think Tank's own minutes of their meetings with Government leaders, the group appeared to have approximately eight to ten members. Included among its members were previous Home Board members, members of the AUBA, individuals in leadership positions with Government-funded organizations, and individuals with close ties to the NDP Government at the time (including former MLAs and a former party candidate).

VOICES had been actively seeking a meeting with Premier Dexter during 2012. The Premier's comments in the media during this period began to focus on concern about the potential for former residents' allegations to divide the African Nova Scotian community. In January 2013, VOICES received a request to meet from a local pastor who indicated that she was writing on behalf of some local pastors and representatives from some Black organizations who were concerned for the former residents and the Black community. She indicated that three members wanted to meet with VOICES to hear from them directly regarding their position on a resolution to the claims against the Home.

VOICES members met with this group on January 16, 2013, at the Black Cultural Centre. At the meeting, members identified themselves as representing the African Nova Scotian Leadership Think Tank (they would later refer to themselves as the African Nova Scotian Community Think Tank). At the outset of the meeting, the Think Tank members gave the representatives from VOICES a questionnaire to fill out with questions about what they wanted to see happen in dealing with their claims about the Home. The former residents inquired who the group represented and why they were asking these questions. The Think Tank members listed the organizations and individuals connected to the group. They indicated they would be meeting with the Premier to discuss the issues of the Home and that they would convey what the former residents were seeking. In the nearly three-hour meeting that followed, VOICES members reported that significant time was spent discussing the Think Tank members' concerns that a public inquiry would be bad for the African Nova Scotian community. Given the connections of members of the Think Tank, and the overarching concern expressed for the protection of the African Nova Scotian community, VOICES experienced the meeting as an attempt to control and silence them with respect to their negotiations with Government. VOICES indicated that they did not require nor wish for the group to serve as a messenger to Government. Indeed, VOICES' purpose was to ensure a mechanism for former residents' voices to be heard and to enable them to advocate on

their own behalf. VOICES indicated they would be the ones to speak to Government on this issue and asked that the Think Tank be clear about this if, and when, they met with the Government.

The Think Tank did proceed to meet with Premier Dexter along with the Ministers of Justice, Community Services, and Finance. The Think Tank's executive summary notes of the meeting on January 22, 2013, indicate their goals for the meeting were to facilitate better communication with Government and gain a commitment from Government to find a process to respond to the Home's allegations that would get "all stakeholders to a win-win." The Think Tank summarized their concerns:

- African Canadian community is concerned about the allegations, the media, and lack of response from Government up to this point.
- Many African Canadian community members are watching and there is an expectation for action to be taken and for resolution to be found.
- The African Nova Scotian community is painfully aware of our history, including our relationship with Government, and it has been fraught with numerous examples of racism, marginalization, and systemic neglect.
  - This Government is in a perfect position to help change this now — in the present. We cannot afford to repeat the mistakes of the past.
  - We do not want to see further harm come to our community.
  - We want to see all the stakeholders in this situation get to a win-win.

According to its notes, the Think Tank did communicate (as VOICES requested) that they do not speak for the former residents. They also recommended that the Government meet with VOICES (although positioned this as about healing and listening, not about determining how to respond).

They recommended:

1) We know that you are in the midst of legal action regarding the allegations by former residents of the NSHCC and that process needs to continue its course. However, **we strongly recommend that government meet with the representatives from VOICES**. They are hurting on multiple levels, and they need to be listened to. We ask that you give them an opportunity to speak directly to Government.
2) **We recommend that the government meet with the board and Management of the NSHCC.** They are also hurting, and need an opportunity to speak directly to Government.
3) **We recommend that both these meetings be held within the next thirty (30) days,** and that **government meet with the TT** [Think Tank] **again following the two meetings**.[27]

The implications of the Think Tank's message to Government was clear: they sought to position the matter of the Home as one between two parties (the former residents and the Home) both deserving of equal concern and consultation. This message was consistent with the general approach the Government had taken to the issue of the Home. The Government sought to position itself as a neutral mediator between the Home/community and the former residents. On February 2, 2013, before the Province agreed to meet with the former residents, then-Justice Minister Ross Landry replied to *The Chronicle Herald's* questions about when the Government might decide how to proceed, by saying that he and other Ministers were still meeting with members of the African Nova Scotian community. He said, "we firmly believe in hearing all sides, having a wide range of consultation, and getting a clear sense of reflection on the materials and evidence that's put before us before we make a decision." Mike Dull, lawyer for the former residents, questioned the outcome of "consultations" the Dexter government said it was having with the local Black community before making a decision.

> They've not sat down with the victims to see what steps can be taken to heal their wounds. Rather they say they're consulting with members of the community… What members? Are there members of the community who do not want a public inquiry and the truth finding that comes with it? I cannot imagine any members of any community wanting to deny these victims a path towards truth and reconciliation. [28]

The Think Tank also clearly tried representing themselves as the entity to broker a solution with Government. To that end, they used the language of the former residents' call for a restorative response to the Home case in their meetings with the Premier. Notably, though, they suggested that such a process must be community controlled and resourced but with otherwise minimal involvement of Government. The day after their meeting with the Premier and cabinet members, the subgroup of the Think Tank reached out to the former residents once again to report on their meeting and inform former residents of their view of the way forward. They indicated the former residents would hear from the Premier.

The former residents did hear from the Premier in the coming days and a meeting was held with the Premier and other members of cabinet on February 6, 2013. Meeting notes taken at the time by a former resident in attendance indicated that the Premier identified his concern to avoid a divide in the African Nova Scotian community as being central to determining a way forward. As discussed in the next section of this chapter, this concern clearly influenced the direction the Government took in response to the abuse claims. Premier Dexter's appointment of an independent panel rather than a public inquiry to deal with issues of healing separate from the ongoing class action was consistent with the recommendations of the Think Tank and contrary to what former residents sought. [29]

Following the Think Tank's advocacy on behalf of the "community" with Government and the former residents, the late Rocky Jones, then Chair of the African Nova Scotian Ujamaa Association (a grassroots network of African Nova Scotian organizations and communities established to support integrated community economic development and capacity building) called a "Black Family Meeting" of the African Nova Scotian community. One of the issues on the agenda for discussion was the allegations against the Home. Jones, interviewed by *The Chronicle Herald*, said the upcoming meeting would deal with, "[t]he issue of the home, because it has been so front and centre, it has exposed many schisms in the community." Jones, unaware of the Think Tank and their activities regarding the issue of the Home, invited former residents to come and address the Black Family Meeting held by Ujamma. The former residents refused his invitation, concerned it was a further effort by the community to control their advocacy in the matter. Surprised and concerned by their response, Jones pursued the issue further with VOICES. VOICES members shared their experience with Government and the Think Tank.

Jones assured VOICES it was not his intent to interfere but to ensure that the broader community could hear and understand the journey of the former residents. Some members of VOICES still did not feel comfortable attending the meeting given their experience with the Think Tank. Tony Smith, co-chair of VOICES, agreed to attend and speak. After hearing from him and about the journey and vision of VOICES, those at the Black Family Meeting (over 200 community members) stood in solidarity and support of the former residents in their call for a public inquiry (not the expert panel planned by Government). They supported former residents' bid to ensure their voices would lead the way in this call for justice. They endorsed the following release from the meeting:

> The participants of the Ujamaa Black Family Meeting held April 5 & 6th 2013 support the VOICES organization in their demand for a public inquiry. The panel suggested by the government will re-victimize the victims, and will not provide transparency and clarity to the African Nova Scotian Community.
>
> A public inquiry will allow the facts to be illuminated, and as a result provide the African Nova Scotian community an opportunity for healing.
>
> Dr. Burnley "Rocky" Jones, Ujamaa Association Co-Chair [30]

Tony Smith committed to take the letter and news of the community support back to the former residents. He indicated to those gathered that this was a very significant moment because it felt like the first time in their long journey that the community had stood alongside former residents in support. Other former residents felt the same when they received news of the supportive stance of Ujamaa representing the grassroots of African Nova Scotian communities.

The concern, reflected by the Think Tank, to protect the institution and ensure its continuation into the future, was echoed throughout much of the history of the governance of the Home. As discussed in Chapter 3, there was a significant focus on protecting institutional assets of the Home. It is perhaps not surprising, then, that one of the early reactions to the abuse allegations and liability was to protect assets through the creation of a foundation. As noted above, the Board pursued this idea beginning in 2001 following the first Notice of Intended Action by a former resident against the Home. In 2004, efforts to establish a foundation and transfer the assets of the Home to this new and separate entity stalled because of concern over the implications of doing so in the midst of the civil action. In 2013, as the Home moved to settle current legal liabilities related to the class action claim for abuse at the Home up to 1989, they also renewed efforts to protect the remaining assets of the Home against future liabilities.

On the morning of March 16, 2013, the Board of Directors and staff of the Nova Scotia Home for Colored Children held a strategic planning session. The minutes reflect that the Board was concerned with creating opportunity for:

- Employment
- Promoting culture
- Creating a new branch not attached to the allegations [31]

The following discussion about the Board structure was recorded in the minutes:

> Are we able to separate so that the NSHCC as an overarching entity can do the larger pieces of work while maintaining Akoma as an entity with a specific focus on work?
>
> Should the NSHCC cease to exist, can Akoma become the larger entity with an expanded mandate?
>
> The board decided that they would move forward with option C, which leaves the NSHCC still incorporated under the Act but as a shell holding body corporate. The assets will be transferred out to a new company limited by guarantee Akoma Holdings (nominal amount $10 required by directors) which will be a registered charity that holds, manages and develops real estate and other significant assets. The Akoma Family Centre Incorporated will also be setup as a separate company limited by a guarantee, which will also be a registered charity and operates the

> child and youth care residential services. We can add other companies as we require but will have to obtain charitable status for each branch prior to start up.
>
> […]
>
> We need to incorporate Akoma Holdings and Akoma Family Centre as registered charities
>
> We need to clarify the charity to charity tax implications of transferring assets
>
> We need to rebrand
>
> We can revisit the option of changing legislation by winding up the NSHCC as a shell company in the future if we wish or changing the name of the shell company [32]

This new strategic plan was approved on the evening of March 16, 2013, at a Board of Directors meeting which included staff of the Home.[33] The NSHCC executive director proceeded as authorized by the Board to incorporate Akoma Holdings Inc., and Akoma Family Centre Inc. The Certificates of Incorporation for both entities were issued on August 13, 2013.[34] At the time of incorporation, the registered officers for both companies were the same and reflective of the membership of the Board of the Nova Scotia Home for Colored Children.

On July 31, 2014, the Canada Revenue Agency notified that Akoma Holdings Inc. met the requirements for charitable registration under the *Income Tax Act* and a similar determination was made regarding Akoma Family Centre Inc., on August 13, 2014.

At the same time, the Board was actively working on achieving a legal settlement with respect to its part in the class action lawsuit. The Board ratified a settlement agreement to be presented to the claimants at the March 16, 2013, meeting of the Board.[35] At the April 10, 2013, meeting, the Chair of the Board reported that the complainants did not wish the acknowledgement to be included in the settlement as it was "too weak" [36] and the minutes of the May 8, 2013 [37] meeting confirm that the acknowledgement was removed because the complaints were not agreeable to the contents. While we do not have access to the proposed "acknowledgement," one can imagine the issue given the settlement agreement reflected the typical legal approach of denying any liability. In this context, it is difficult to imagine that a meaningful acknowledgement of harm and responsibility could be achieved. The settlement was subsequently approved by the Court on June 10, 2013, and was finalized following an opt-out period on September 11, 2013.[38]

The Nova Scotia Home for Colored Children Board was still in existence at this time and was represented on the design team for the Restorative Inquiry. On June 15, 2015, the Honourable Tony Ince, Minister of African Nova Scotian Affairs, introduced the Chairperson of the Nova Scotia Home for Colored Children in a ceremony held at Emmanuel Baptist Church to launch the Restorative Inquiry. The Home issued a long-awaited public apology to former residents and the African Nova Scotian community. This came following the Home's participation in the

design of the Restorative Inquiry and as part of its commitment to enter into that process as a partner. This apology was quite different in this respect from the "acknowledgement" that was originally offered as part of the legal settlement process. The chairperson issued the following public apology on behalf of the Board leadership:

> The Nova Scotia Home for Colored Children was established in 1915 and opened in 1921. It was birthed as a result of collective action of African Nova Scotian communities to respond to the disregard and refusal of services by the government of the Province of Nova Scotia of Black children in need. The purpose and heart of the Nova Scotia Home for Colored Children was to be a safe, caring surrogate family for children taken into care by the province, as well as for families to identify themselves as needing support beyond their individual and extended family. Its original foundation was one of love, compassion, hope and perseverance. The current Board understands that many residents in the past did not experience the level of care and compassion that the founders conceived of and that all children have a right to. We, the Board leadership of the Home, apologize to the former residents and staff who suffered or experienced harm at the Home. We are deeply sorry for the physical, emotional and other harms that you have experienced. Many of us are descendants of former residents and of community members who wanted the best for residents and believed in the power of community. We want to honour that faith and original vision by advancing forward while learning from the past. The Nova Scotia Home for Colored Children wants to be part of the journey of healing and rebirth. We look forward to moving forward. To holding hands and being an active partner to respond to past injustices and helping African Nova Scotians in our voices to write the future message of our place in all aspects of the Nova Scotia society. We, through the Restorative Design Team, are grateful to be part of the collective voice building a new equitable relationship with the Province of Nova Scotia that will address the root cause of the challenges facing African Nova Scotian families and children.[39]

NSHCC chair Sylvia Parris at Inquiry launch

Restorative Inquiry, courtesy of Communications Nova Scotia

This was the second public apology issued to former residents for harms suffered or experienced at the Home, the first apology (as discussed further later in this chapter) was issued eight months earlier by the Premier of Nova Scotia on behalf of all Nova Scotians.[40] The significance of the Home's long-awaited apology to former residents was expressed immediately by the chairperson of VOICES who said:

> This is very moving for me — and I know many other former residents — to hear this from the Colored Home. A lot of us thought this would never happen. On behalf of VOICES, and the former residents who were hoping this day would come to receive this apology, I thank you.[41]

On August 25, 2015, two-and-one-half months after issuing the public apology on behalf of the Home, the leadership of the Home executed two deeds gifting all of its assets and liabilities to Akoma Holdings Inc. and Akoma Family Centre Inc. Although the deeds were executed after the Home issued its public apology, upon execution of the deeds, the changes became effective retroactive to April 1, 2015.[42]

The failure to disclose that these new separate entities were being established, effectively ending the operation of the Home as an entity, caused some uneasiness and concern among former residents regarding the source of the Home apology. It appears, however, that during the transition period, the newly established Akoma Holdings and Akoma Family Centre Inc. Board leadership overlapped with the Home Board at the time the apology was offered. Following the transfer of assets, however, the Akoma Board continued to represent the historical legacy of the Home through the Restorative Inquiry without clarifying that the Board of the Home was no longer in existence. This may have reflected their sense of moral duty to the legacy of the Home and certainly conformed to community expectations, given the general lack of awareness that the Home no longer existed as an operating institution. It ultimately became clear, through the Restorative Inquiry process, that the subsequent Board representation and participation on the Restorative Inquiry was actually provided by the Akoma Board.

The Deed of Gift and Donation Agreement dated August 25, 2015, with an effective date of April 1, 2015, transferred significant assets from the Nova Scotia Home for Colored Children to Akoma Holdings Inc. The deed also references the assets transferred in a separate instrument from the Nova Scotia Home for Colored Children to Akoma Family Centre, which is identified in the deed as *an affiliate of the Grantee* (Akoma Holdings Inc.). The particular assets and liabilities gifted to the newly incorporated Akoma Holdings Inc. included approximately 325 acres of real property comprised of the following parcels, including all buildings and structures erected thereon, excluding those buildings and structures situate on lands leased to third parties;[43] real property leases;[44] investments totalling $1,400,000 held in various accounts; and miscellaneous personal property, for example all furniture, fixtures, equipment and other contents of the Bauld

Centre. Akoma Holdings also assumed all existing financial liabilities of the NSHCC, including a mortgage to Central Mortgage and Housing Corporation in the amount of $548,130, dated January 17, 1978, and an operating line of credit with the Bank of Nova Scotia in the amount of $300,000, dated September 22, 2014.[45]

The Deed of Gift and Donation Agreement dated August 25, 2015, with an effective date as of April 1, 2015, also transferred assets from the Nova Scotia Home for Colored Children to an affiliate of Akoma Holdings, Akoma Family Centre Inc. The particular assets gifted to the newly incorporated Akoma Holdings Inc. were as follows: a licence for a child-caring facility issued on June 13, 2015, by the Province of Nova Scotia Department of Community Services pursuant to the *Children and Family Services Act*; personal property, such as all tools and equipment and all household and office furniture, appliances, furnishings and office supplies used in connection with the child-care services and contained in the two residential buildings located at 1016–1018 Main Street, Dartmouth, Nova Scotia, including, without limitation, two stoves, five refrigerators, two washing machines, two clothes dryers, seven sofas, two dining room tables and dining chairs; equipment leases; and computers, software, and related accessories.

Noticeably absent from the transfer of assets was the provision limiting the use of the assets for the benefit of the African Nova Scotian community, or for the benefit of the care and training of children. As discussed in Chapter 3, this provision was fundamental to the incorporation and subsequent legislation pertaining to NSHCC. The incorporation of the new entity Akoma Holdings and the transfer of the Home's assets to this new entity removed the provision that ensured the assets would remain connected to the African Nova Scotian community should Akoma Holdings wind up operations. The originating legislation incorporating the Nova Scotia Home for Colored Children was passed in 1915. Then, on May 5, 1978, the Nova Scotia Legislature assented to "A*n Act to Revise an Act To Incorporate the Nova Scotia Home for Colored Children*," which provided the following with respect to the dissolution or winding up of the Home:

> 16. In the event of the dissolution of [sic] winding up of the Home all of its assets, remaining after payment or liabilities shall be distributed.
>
> (a) to the African United Baptist Association or to any other Charitable organization designated by the Board, or
>
> (b) to one or more charitable organizations, registered as such with the Department of National Revenue of the Government of Canada, with objects for the care, protection or education of the Black-Afro race.[46]

A plain reading and interpretation of the dissolution or winding up provision contained in the 1978 act stipulates that, should the Home dissolve, all of its remaining assets (after payment of liabilities) shall be distributed to the African United Baptist Association or any other charitable organization designated by the Board.

On August 25, 2013, the Nova Scotia Home for Colored Children gifted and donated by deed all of its assets to two newly incorporated Nova Scotia companies, Akoma Holdings Inc. and Akoma Family Centre Inc. In Nova Scotia, incorporated companies are required file a Memorandum and Articles of Association with the Registry of Joint Stock Companies. A Memorandum and Articles of Association sets out the companied objects, and the manner in which the company is to conduct its business. The 2013 Memorandum and Articles of Association for both Akoma Holding Inc. and Akoma Family Centre Inc. provided the following with respect to the dissolution or winding up of the companies:

> […] in the event of liquidation, dissolution or winding up of the Company, the surplus assets, if any, after all liabilities of the Company have been paid, shall not be distributed to any member of the Company, but shall be transferred to one or more non-profit organizations that are also qualified donees under the *Income Tax Act* (Canada).[47]

There is a subtle but important distinction to be made in interpreting the intent of the 1978 legislation and the 2013 incorporation documents regarding distribution of the Home's surplus assets upon dissolution or winding up. The 1978 (NSHCC) legislation makes clear the AUBA was first in line with respect to the distribution of the Home's surplus assets. However, the 2013 (Akoma) incorporation documents appear to remove the AUBA from its priority status upon dissolution of the companies. This provision in the 1978 legislation may also shed some light on the decision to retain the NSHCC as a legal shell or to wait until some later date after the transfer of assets is complete before dissolving the Nova Scotia Home for Colored Children as provided for in legislation.

Efforts to protect the assets of the Home were clearly linked to the threat posed by the costs and potential outcomes of litigation. Even after the class action claim was settled, the Home Board continued to seek support from the Government for the costs incurred. In a letter to then-Justice Minister Cecil Clarke, the Board expressed their concern regarding the costs of the litigation:

> The defence costs to date have totaled close to $700,000 for which the Home has been responsible for approximately 35% or $245,000. We have been carrying this liability to the extent that our very existence is potentially under threat. The Home does not have available the financial resources to continue to pay the necessary legal costs to defend these claims and/or pay out any claims. If the Home does not receive support from the Province of Nova Scotia, we will not be able to continue our operations over time. Consequently, the Province would lose not only a valuable child care facility, but an important part of its cultural heritage. Furthermore, losing the Home would wound the African Nova Scotian community immeasurably — echoing the demise of Africville — and would be a significant blow to the Province's relationship with the African Nova Scotian community.[48]

The letter requests that the Province provide the Home with the necessary resources to defend the legal claims and enter into an agreement to indemnify the Home for any claims payable. A similar letter was sent to the Minister of Community Services. The Government responded with a promise to schedule a meeting with senior officials of both departments after they reviewed the issues. It also noted that, based on previous discussions with the Home, it was clear that "the Home's current operating situation is not in crisis."[49] The Home wrote a similar letter to the Ministers of Justice, Community Services, and African Nova Scotian Affairs in 2012 seeking assurance that the Province would participate in the financial resolution of the legal claims.[50] This letter resulted in an invitation from Minister for African Nova Scotian Affairs Percy Paris to a closed-door meeting with the Minister of Justice and Minister of Community Services for the purpose of information sharing and without legal counsel present.[51] Further correspondence reflected increasing frustration on the part of the Home Board with the government's lack of response and support. The Chair of the Board wrote to the Minister of Justice on May 11, 2012:

> As you know, both the Home and the Province must file their respective evidentiary records with respect to the class action certification motion in June 2012. The evidence that the Home may have to file to properly defend itself may not be flattering to the Province. Furthermore, if the certification motion has to proceed, this will have a substantial impact on the options [available] to both the Home and the Province.
>
> It is imperative that we meet in a timely fashion so that our response options are not so limited. The time to act is now.
>
> I am sure you will not be surprised to hear that the Home's board has been receiving inquiries from members of the opposition parties. At the board's most recent meeting (May 9), it was acknowledged that as a matter of common courtesy and respect, the Home should respond to these questions.
>
> I can assure you that the NSHCC board is committed to work with the Province to reach a timely, equitable resolution.[52]

In June of that year, the local MLA Keith Colwell intervened on the Home's behalf, asking that Ministers meet with the Home in recognition of the urgency of the situation. The response from the Minister of Justice indicated this was a complex matter and they needed to tread cautiously.[53] The Government continued to decline requests to meet with the Home Board until February 4, 2013, when a meeting was held with Premier Darrell Dexter and other Ministers.[54] The notes prepared for the meeting reflected the efforts of the Home Board to meet with Government and to propose collaboration in a settlement of the class action. They indicated that the government had resisted these efforts and reported that the Home's legal costs were then over $400,000. They requested that the Government consider settling the case and assist

the Home with its legal costs.[55] By October 2014, with the new Liberal Government of Stephen McNeil in power, and while the Home was engaged in plans for the Restorative Inquiry, the Home Board wrote to MLA Keith Colwell claiming its legal fees to be over $750,000. The Home attributed this directly to "the reluctance of past governments to acknowledge their obligations which would have ultimately minimized financial impacts."[56] The letter continued:

> As we participate in the Restorative Inquiry, we are anxious to address this very fundamental issue. The Board is requesting from the government some restitution towards our legal bills.[57]

Throughout 2014 and 2015, their efforts continued with the Government to get compensation for legal fees. The Government indicated it had no plans to provide such funding as it considered the issues settled and would not revisit the matter.[58]

It is clear that the Home felt tied to the Government in its legal response to abuse allegations for some significant period. In part, this seems to have been because they were uninsured for a significant number of the claims and, therefore, felt unable to settle the claims without Government assistance. In the end, the Home did come to an agreement to settle its liabilities for an amount within their insurance coverage. Fully understanding the Home's response in this case, then, requires an appreciation of the Government's response to the abuse claims.

Government Response

Given the complex nature of the relationship between the Home and the Nova Scotia Government since the Home's inception (as discussed in Chapter 3), it is not surprising there were significant connections to the Home within Government at the levels of officials, politicians, and parties that shaped their interactions in response to abuse.

The Provincial Government's direct involvement in the response to former residents' allegations of harm and abuse began in 2000 when the first Notice of Intended Action named the Government and the Children's Aid Society alongside the Home. As noted in the discussion above, the Government was involved at the earliest stages of the allegations as the Home reached out and sought advice and support from the Department of Community Services. The NSHCC turned to the Government for support because of their role as part of the child welfare system. Former residents also looked to the Government for a response to their claims. They wanted their complaints investigated but the Government indicated that responsibility fell to the police.[59]

A. Police Response

Tony Smith was the first former resident to publicly disclose his abuse to *The Chronicle Herald*, in 1998. A few months later, he reported his abuse and ongoing concerns about residents at

the Home to the RCMP. Other complaints followed, including one by former resident Shirley Melanson, who complained to the RCMP in Digby detachment and her statement was forwarded to the Sackville detachment. She reported that the officer who took her statement followed up to see if she had heard anything further from her complaint. She never heard from anyone else with respect to her complaint.[60]

The initial complaints generated no response from authorities. Fourteen years later, more former residents made complaints to police following the revelations in the *W5* documentary on the Nova Scotia Home for Colored Children. Some former residents renewed earlier complaints and others came forward for the first time. One of the former residents who went to police had been involved in a documented case of sexual assault that was brought to police attention at the time it occurred. As noted in Chapter 3, the police declined to investigate at the time because of her age (she was 16) and the fact she did not appear from the third-party accounts (the police never met with her at the time) to have put up a fight in response to the staff member involved. There was, therefore, a significant range in the nature of the report's time period and alleged harms. In March 2012, in response to this new round of complaints, the RCMP, in collaboration with Halifax Regional Police, launched what they characterized as a widespread investigation. At the time, the RCMP stated it had no record of any earlier complaints. They undertook a review and concluded:

> "We have conducted an extensive review of existing RCMP records and have determined that prior to now, there is no record of any complaints or criminal investigations in regard to the alleged sexual and/or physical abuse of residents residing at the Nova Scotia Home for Coloured Children," wrote RCMP spokesman in an email.[61]

Two RCMP officers told *The Chronicle Herald* that they received complaints about the Home for Colored Children. In 1998, an RCMP officer said:

> We have received a phone call in regards to the Home for Colored Children… At this point, an investigator hasn't been assigned nor has exactly where an investigation will take place from been determined. It is very premature at this point to say what will take place and it is hard to say when this will begin. It is tricky because the matter is years old, so whether it is this week or next week, we can't really say.[62]

Another RCMP officer reported, in 2003, that there had been an investigation, but no charges laid.[63]

In 1999, Tony Smith made a public appeal for others who were abused in the Home to come forward to police because the RCMP had indicated to him they needed more information to warrant a further investigation.[64] The Home Board minutes contain evidence of the police investigation into Tony Smith's complaint in April 1999 as they reported two officers attended at the Home with respect to the complaint.[65]

The denial of receiving any prior complaints and the failure to follow up on them was a source of contention for many former residents, some of whom already had a negative view of law enforcement stemming from their experiences as children in care. As discussed in Chapter 2, as part of the Inquiry process, the RCMP undertook another comprehensive search for the files and a review of processes and procedures that may have contributed to the failure to identify the earlier interview and investigation during 2012. This process identified a number of potential contributing factors, including policies at the time related to file storage, data entry, file tracking, file retention, and the system of file classification that may have resulted in files being culled/destroyed erroneously. The RCMP acknowledged previously the search was conducted to confirm the existence of files, not whether or why such files may be missing. The RCMP engaged in the process within the Restorative Inquiry with a commitment to learn and understand what happened and the significance and impact on individuals who had come forward.

No charges were ever filed related to abuses at the Home. In December 2012 (one day after the certification of the class action claim), the integrated RCMP/Halifax Regional Police (HRP) investigation team concluded their investigation into allegations of physical and sexual abuse at the Home. They released the following public statement regarding their conclusions:

> In March 2012, the RCMP and HRP released a statement encouraging individuals with direct information on alleged abuse to come forward to speak with police. An investigative team was formed shortly after to focus solely on these allegations. We understand that a significant period of time has passed since these alleged instances of abuse took place and it may have been difficult for people to discuss this very challenging time in their lives. However, we were encouraged by the number of people that came forward to speak with police. The team did an exceptional job conducting a thorough investigation and various avenues available for investigative perusal were examined.
>
> The investigative team traveled throughout Nova Scotia, New Brunswick, Quebec, Ontario and Alberta to personally interview 40 complainants. Possible witnesses and those with potential information on the allegations were also interviewed in an effort to corroborate statements and garner further evidence.
>
> The investigative team has determined that the evidence brought forward does not support the laying of criminal charges. The information obtained was unable to be corroborated to meet the threshold that would formulate reasonable and probable grounds to lay criminal charges. It is important to understand that in order for police to lay charges in any investigation, these grounds must be supported by evidence that will withstand the scrutiny of the court process.

> This investigation warranted only limited consultation with the Nova Scotia Public Prosecution Service due to a lack of reasonable and probable grounds to lay charges.

Throughout the investigation, some individuals were earlier notified that their cases would not be investigated further. This was determined by the inability to gather sufficient evidence to support and substantiate criminal charges. Many years have passed since some of the allegations were to have taken place and some of those alleged to have committed criminal acts have since passed away.[66] Beyond this press release, the police did not elaborate on their decision not to pursue any of the cases. Given the range of circumstances, including those allegations that pertained to individuals who were still living and working in HRM, and a case where there had been previous police involvement, the blanket refusal to pursue any cases was confusing and upsetting to former residents. Their disappointment was heightened by the police decision to re-open an investigation a few months later, in April 2013, in the high-profile case of the sexual assault of Rehtaeh Parsons, a Halifax area teen who took her own life following an alleged sexual assault and bullying after the distribution online of images related to the assault. The police had made the decision not to pursue charges for lack of evidence in her case as well. However, following a public outcry and threats from the group Anonymous, the police announced they would re-open the case on the basis of new and credible evidence. Although, the case similarly involved evidentiary issues related to prosecuting sexual assault, the NSHCC cases were further complicated by the passage of time and the age of some of the complainants at the time of the incidents. Given the harm experienced by some former residents when earlier complaints were not pursued, former residents experienced the unwillingness to reconsider their case as a reflection their harms were less important.

B. Legal Response

The Government initially regarded the revelations of abuse as a matter for police and a matter for the Home to deal with in terms of the public perception of the institution. It was not until the filing of the first civil claim that the Government became directly involved in the response to former residents' allegations. From 2000 to 2013, the Government response was primarily handled as a legal matter by the Department of Justice.

The Government's response to the civil claims regarding the Home followed the investigation and Government response to abuse allegations in Provincial youth facilities, including the Shelburne School for Boys, which began in 1994 with a comprehensive Government process including an investigation and compensation program. At the time the first civil claims were made regarding the Nova Scotia Home for Colored Children, the Province was in the midst of a formal review of the response to Shelburne and other Provincial institutions. Mr. Justice Fred Kaufman was mandated to conduct the review in 1999 and produced his report with wide-

ranging recommendations for future Government responses to institutional abuse claims in 2002.[67] Just after the first civil claims were filed in the Home case, the Law Commission of Canada produced their report *Restoring Dignity: Responding to Child Abuse in Canadian Institutions*, which identified significant concerns regarding the traditional legal process of responding to institutional abuse.[68] In his final report, Kaufman indicated that he "found the Law Commission's analysis to be extremely helpful in identifying the needs of survivors and the criteria and principles to be used to examine the merits of various approaches." He noted that the Law Commission recognized that the needs and interests of everyone involved need to be considered when designing a response and used this to qualify the Law Commission's approach to redress saying: "[o]f course, I share the Law Commission's view that fairness for all affected parties must be considered in assessing any approach to reported institutional abuse. However, I hold a somewhat different view as to how fairness is to be achieved, particularly for alleged abusers, within a government redress program."[69] Justice Kaufman's express commitment was to ensure processes met the needs of all concerned. Perhaps not surprisingly, given his role as a judge within the adversarial justice system, his analysis and recommendations reflected a faith and commitment to existing adversarial processes as the means to vouchsafe legitimacy and fairness. As a result, Kaufman's analysis and recommendations allowed for the role of Government redress programs but reinforced the place of mainstream adversarial justice approach as core to such responses.

The Provincial Government mounted a rigorous and exhaustive defence of the civil claims right up to the point of settlement in 2014. It made use of the available legal procedural options at the preliminary stages to challenge and resist former residents' claims before they could be heard and adjudicated in terms of the substance of their claims. These procedural responses included demands for particulars regarding each individual claim, further interrogatory requests requiring responses to further written questions, motions for summary judgment to dismiss claims based on discoverability and limitation periods, and other procedural efforts to defeat or weaken the claims at the preliminary stages prior to the certification of the class action claim in 2012. The litigation approach of the Government was mirrored in lock step by the NSHCC. This approach resulted in significant delays in the process and created burdens for individual claimants and the class as they were required to be examined about their experience multiple times under significant time pressures. A detailed account of each step of the litigation from 2001 to 2014 is not necessary for the purposes of this report. It is helpful to illustrate the nature of the litigation process and its progress leading up to the settlement of the class action claim.

I. Individual Civil Claims

In response to the individual claims made by former residents beginning in 2001, lawyers for the Province made Demands for Particulars. In total, they made such demands for 62 claims. In addition, lawyers for NSHCC delivered Demands for Particulars on 27 former residents.

Demands for Particulars can be made under the Civil Procedure Rules that apply to civil claims in the Province of Nova Scotia. Rule 38.08 allows a party in a civil case to demand a further and better statement of a claim. The demand can only be made for a better statement of the claim and not for evidence that supports that claim. Once a demand is delivered to a party, they must file an Answer within 10 days. For former residents, this meant that once a demand was made, they had to meet with their lawyers to go over more details of their experience and commit these to writing to share with the other side.

Lawyers for the former residents complained that this was a stall tactic and delayed the respondents (Government, NSHCC, and the children's aid societies) having to respond to the claims. The requests caused substantial distress among former residents who were asked repeatedly for more and more detail at the very early stage when they were simply stating (or "pleading") their case. Such demands for more information are generally defended by the other side as necessary where pleadings are vague, and to secure further and better details about the case to be met in order to draft a defence.

Defences in the Home case were not filed until 2004 and 2005. This was the case even for the early claims filed in 2001. This meant, for example, that Robert Borden, the first former resident to file a complaint in 2001, was left waiting for a response to the substance of his complaint from the Home until December 17, 2004, and from the Government until January 19, 2005. The Home and Government filed en masse, boilerplate, identical defences to all claims. Despite receiving 89 sets of particulars, which provided more details about each claim, the defences did not generally make any reference to individual circumstances. They offered blanket denials of everything.

On August 17, 2005, despite having received 89 Answers for Particulars from former residents, the NSHCC served a long list of Interrogatories on each claimant. Rule 19 of the Civil Procedure Rules in Nova Scotia allows a party to demand answers in writing and the person asked must provide answers within 20 days. If a person refuses to answer a question, a judge can order the person to do so and could charge the individual who refuses for the cost of the process to get answers. In the Home case, lawyers for the former residents refused to answer these questions, arguing that they were not necessary to the case. The NSHCC brought a motion in Court seeking that the lawsuit be dismissed if answers were not provided. The Court sided with the NSHCC's procedural right to compel answers and set an October 31, 2006, deadline by which all questions had to be answered.

These procedural steps were a good defensive litigation strategy. They focused the attention of former residents and their lawyers on the individual claims and not on the allegations of systemic negligence that underpinned each claim. The impact was to consume lawyers for the former residents with efforts to locate and meet with their clients to convince them to reply (in many cases) to a third set of written questions.

The early former residents to make claims filed (disclosed) their "List of Documents" (evidence) supporting their cases in 2005. Defendants delayed in producing the relevant documents in their possession. The NSHCC did not provide disclosure by way of a "List of Documents" with respect to the earliest cases until 2007 and 2008. The rules of procedure require that such disclosure happen within a reasonable period following the end of pleadings. Typically this is a matter of weeks not years. Their disclosure should have provided any documentation in their possession relevant to the pleadings that alleged decades of systemic neglect/knowledge of abuse. However, the Home produced nothing about the Home's operations (finances, inspections, etc.). Their documents also contained nothing about any instances of any abuse inflicted on any former residents. There was no disclosure of staff files despite being asked for information regarding these staff in a Demand for Particulars from former residents' lawyers following the Home's statement of defence. The Home's disclosure on each of the cases consisted simply of the resident's case file. The Home said that a resident's personal file was the only relevant documentation in their possession or control.

The disclosure of the Government of Nova Scotia was even less. Despite waiting until 2008 to meet disclosure obligations, the Province's "List of Documents" in all cases claimed that they had no relevant documents in their possession or control.

Following document disclosure, several former residents (11) underwent discovery examinations. Each discovery lasted about a day and required a former resident to sit in a boardroom with at least six lawyers and answer questions about abuse and life outcomes. The experience of being examined was often very stressful for individuals. It was even more so for former residents who were required to recall precise details of traumatic childhood experiences under pressure; any mistake in their recall or inconsistency in their description would be used against them later to challenge their credibility.

One of the focuses of these examinations for lawyers for NSHCC was related to the issue of "discoverability." In Nova Scotia (as in other Canadian jurisdictions), there is a limit to how long a person has to file a legal claim for compensation. That period starts when you "discover" you have a legal claim. Shortly after the examinations of Tony Smith and Robert Bordon, lawyers for the NSHCC (supported in this position by the lawyers for the Government) filed Motions for Summary Judgment. They asked the Court to decide on these cases without a trial on the facts of what happened. They asked the Court to dismiss the claims because they were brought too late, according to the *Limitation of Actions Act*. It was the NSHCC's choice to argue this position. Limitation periods are not be applied unless argued by one of the parties to a case.

The Summary Judgment Motions were heard before Justice Walter Goodfellow on March 23, 2009. He struck (dismissed) their claims. He made a finding of fact that it was "plain and obvious" the former residents in question discovered the connection between the abuse/harms and the legal claim they could make in the 1980s. The judge's determination on this factual issue was not something former residents were permitted to challenge. This means that the

clock on the limitation period would have started in the 1980s and the former residents ran out of time before coming forward publicly and filing a claim. Changes to *Nova Scotia's Limitations of Actions Act* in 2015 removed the limitation period in cases of sexual abuse so that the outcome in these cases would not happen today.

Justice Goodfellow determined with respect to Tony Smith's claim:

> When one advances allegations of sexual abuse and discloses such allegations in detail to wife and family and a panel for prospective employment as a counsellor for adolescents plus his with the press, et cetera, these undisputable facts direct from Smith overwhelmingly establishes that he was reasonably capable of commencing a proceeding no later than in the 1980s, at the most 1990.[70]

With respect to Robert Borden's case he found:

> There being no arguable issue that clearly as [sic] 1985/1986 Borden had a substantial degree of awareness if not complete awareness of what had transpired against him was wrong and the harm he suffered was directly caused by such wrongful conduct. His conversations with Ann and Denise clearly indicate acknowledgement of entitlement to pursue those who had wronged him. I conclude the limitation period as relates to the cause of action of negligence prevails…The accumulative effect of the direct evidence from Borden clearly indicates that in 1985/1986 he was reasonably capable of commencing a proceeding.[71]

Both former residents appealed the decisions to summarily dismiss their claims to the Nova Scotia Court of Appeals. The decisions were upheld by that Court because it said there was no "palpable and overriding error" in the first judge's view of the facts that would cause them to revisit the decision. The former residents tried to appeal this decision to the Supreme Court of Canada, but the Court refused to hear the case.

Lawyers for the rest of the former residents continued to pursue further and better disclosure from the NSHCC. They indicated they would bring the matter back to the Court if the NSHCC did not disclose the information they requested (including files of all alleged abusers, and documentation related to all abuse/neglect in the possession of the Home regardless of whether such abuse/neglect was inflicted on a former resident who had started a lawsuit). Under threat of further Court motions, the Home produced the employment files of alleged abusers in 2011 (six to seven years after their defences were filed). However, the Home refused to disclose documentation pertaining to all "other" abuse/neglect, stating in a letter:

> With respect to individual claims, systemic negligence is irrelevant; either an individual is abused or they were not abused and either the defendants are liable or they are not liable.[72]

...

> We have not reviewed all of the files of residents who are not Plaintiffs in this action (except when those residents are alleged to have themselves been abusers) as those documents are irrelevant and indeed confidential. The NSHCC has absolutely no obligation to go through the records of residents who are not involved in this litigation[73].

Former residents, through Gerald Morrison's claim, brought forward a motion to the Court to get the Home to produce this information in an effort to show patterns and the systemic nature of neglect and abuse. At Court, lawyers for the Home indicated that they would search for, and produce, documentation of "other" abuse/neglect but only if Gerald Morrison paid them to do so. Justice Duncan agreed that documentation pertaining to "other" abuse/neglect was relevant to Gerald Morrison's allegation of systemic negligence and ordered production of the same. However, he limited the scope of relevance to only six months before Gerald Morrison entered the Home and two-and-a-half months after his departure. If the Home had any documentation in its possession concerning abuse outside of those strict timelines, they did not have to disclose it in Gerald Morrison's case. The Home was unsuccessful in its efforts to have Morrison pay the cost to search for relevant documents.[74]

Part of the complexity faced by former residents in making their claims was the fact that there were multiple defendants. Former residents sued those with shared roles and responsibilities for their care, including children's aid societies and the Government on whose authority many were placed in the Home and who had responsibility for regulation and oversight of child welfare and protection. This created debate among defendants regarding their share (if any) of responsibility for what happened to former residents. Defendants made arguments about the extent of their liability against one another and with respect to certain former residents. This included overarching arguments about whether the Government had any oversight responsibility for the Home once children were placed in it, given it was a private child-caring institution. Government also disputed its responsibility for children who resided in the Home but were not placed there as wards of the Province. Finally, they generally denied all liability for those who lived in the Home pre-1951 because rules limited liability of the Government for its actions before that time.

II. Class Action

While the individual claims proceeded through these various procedural steps, a proposed Class Action Claim was being developed. Class actions were not possible in Nova Scotia before the introduction of the *Class Proceedings Act* in 2007. The former residents of the Home filed a Class Action Claim on February 7, 2011,[75] after case law had developed across Canada finding that class actions are well suited for institutional abuse claims.

The Class Action named two defendants: the Attorney General of Nova Scotia (the Nova Scotia Government) and the Nova Scotia Home for Colored Children. A motion to certify the class action was filed in February 2012. Certification means that the Court has looked at the case and determined that a class action is the best way to deal with multiple claims. There is no requirement for defendants to file a defence unless/until a class action is certified. This means that, until it is determined whether a class action is the best way to proceed, the defendants (the Government and the NSHCC) did not have to make any response to the claims made in the class. No Statement of Defence was ever filed in the class action regarding the NSHCC.

Lawsuit documentation

In addition to retaining their long-standing counsel at McInnis Cooper, when the Class Action was filed, the NSHCC retained nationally renowned class action lawyer Ward Branch to defend them. After a decade of rigorous litigation, Branch took a practical approach to resolving the case against the NSHCC. It was explained (for the first time) to former residents (through their lawyers) that the NSHCC was not insured for the vast majority of the claims made against it. Given this reality, success for the former residents in their claim would strip the NSHCC of its assets in order to pay out compensation. In 2012, the former residents entered into settlement discussions with the NSHCC. The former residents agreed to consider a settlement within the limits of the available insurance that would protect the existing assets of the Home. These discussions resulted in the NSHCC settling the class action (and all its liabilities pre-1990) for $5 million all inclusive.

That settlement was approved by the Nova Scotia Supreme Court as being fair and reasonable on June 10, 2013. The funds were ordered held in trust pending the outcome of the case against the Province.

The Provincial Government took a very different approach. It rejected offers to participate in settlement discussions along with the NSHCC and continued to invest in litigation as a means of dealing with the claim. The Government continued its rigorous defence against the class claim that began with respect to individual claims. For example, after the former residents filed their evidentiary record in support of certification of the Class Action Claim, the Government brought a Motion to Strike most of their evidence. Government lawyers were comprehensive in their efforts to get rid of the evidence. As explained in the reported Court decision in the case: “The Province challenges these statements on many grounds, including: irrelevance; hearsay; unqualified opinion evidence; speculation; inappropriate argument; and inappropriate solicitor’s

affidavit."[76] When challenged on the Government's decision to take this approach, which legal experts described as extreme, Premier Dexter insisted: "The applications made yesterday before the Supreme Court were routine. They are a routine matter." He did not acknowledge that it was a choice made by the Government to proceed with such a legal strategy. Instead he portrayed the matter as one required by the rules of Court. "The Supreme Court has its own set of rules that it applies, it looks at evidentiary questions, all of those things." He went on to argue "these are routine applications. They happen all the time. The rules before the Supreme Court are that they have control over their own process."[77] Government efforts were successful in taking out parts of the affidavits (statements) that were submitted in support of the former residents' case. The vast majority of the evidence, however, was accepted by the Court.

This was not the only legal tactic employed by the Province to ensure the Class Action Claim was not certified. The assessment of whether to certify a class action is not based on an evaluation of the claims themselves (for example, whether what is alleged happened or not). Courts have determined that the relevant question to decide if a class action should proceed is whether it meets the requirements for such a claim. It is the responsibility of the party bringing the claim to show that:

- there is a legal "cause of action" or claim to be made in the case;
- that it is possible to clearly define a group of people (a class) who will be included or covered by the case;
- that there are common issues of law and fact among the claims of the group;
- that a class action is the best way to proceed with the multiple claims involved; and,
- that the individuals selected to represent the class in terms of the claims adequately represent the interests of the rest of the group in the case.

The requirement that plaintiffs show a cause of action — that they have a legal claim — does not require them to prove all the facts of the case to get a class action certified. Proving the facts of the claims only happens at trial. A Court will only refuse certification because the claim lacks a cause of action if it is "plain and obvious" that it discloses no reasonable cause of action and cannot succeed. This is not meant to be a high bar for plaintiffs to get over. The certification stage is intended to be procedural, the required evidence in support is meant to be lower than at trial in order to protect the process from becoming bogged down by evidence that goes to the merits of the case. This means that plaintiffs are not normally cross-examined on the details of their case, on whether the facts alleged are true at the certification stage of the process. The courts in Canada have unanimously stated that certification is not about the merits of the claim (individually or across the members of the class). Despite this, lawyers for the Government subjected former residents who had shared their experiences in affidavits

to cross-examinations in Court that were primarily focused on the merits of their evidence. Former residents subjected to this cross-examination were very distressed. The certification hearing lasted almost two weeks, which is almost unprecedented in Canada in terms of length.

While the experience of cross-examination was harmful to the former residents, it did not, ultimately, affect the outcome of the proceedings. On December 12, 2012, the Court certified the case as a class proceeding.[78] There was one significant impact of the certification proceedings: the Province argued that the class ought to be limited to those who lived in the Home from 1951 to 1990 (as opposed to what was proposed by the former residents, which would have included all residents from 1921 onwards). The lawyers for the former residents conceded that tort claims pre-dating the enactment of the *Proceedings Against the Crown Act* (1951) were not allowed by law. Lawyers for the former residents did ask the Court to extend the time period for the class to include those who had lived in the Home prior to 1951 for the purpose of allowing them to seek "declaratory relief." This meant that those who lived at the Home prior to 1951 could not sue for compensation, but they could seek a finding and a declaration (statement) from the Court that they had been subjected to harm and abuse along with the rest of the class. The only difference between residents pre-1951 and post was who would be entitled to be included in a Court order for compensation. This was ultimately accepted by the Court. Though the Court agreed that it was "plain and obvious" that tort compensation was not available to pre-1951 residents, it included pre-1951 residents in the class definition by virtue of their right to seek a determination from the Court that they were harmed.

III. Efforts to Settle – Beyond the Courts

A month before the release of the certification decision, on November 3, 2012, the CTV investigative journalism program *W5* aired the documentary *The Throwaway Children*. The documentary was described as an investigation of the "horrific stories of abuse and terror at a residential home that was supposed to protect vulnerable children. [It] explores a devastating cover-up spanning decades that includes allegations of physical, emotional and sexual abuse affecting orphaned and abandoned children."

Former residents

After the Home settlement, the *W5* documentary, the continued regular media coverage, and then the decision to certify the class action claims so that they would proceed, the public calls for the Province to give "justice" to the former residents and for a public inquiry intensified. The matter was brought up regularly in the legislature, including calls from both opposition parties for a public inquiry.[79] As discussed in the first part of this

chapter, former residents had formed VOICES by 2012 and were actively advocating for a restorative process to settle the claims and publicly inquire into what happened. Members of the African Nova Scotian community and supporters of the Home, specifically the small group calling themselves the Think Tank, were also actively lobbying Government regarding the way to deal with the abuse allegations. The Dexter Government sought to separate the issue of liability (since the Home settled its liabilities, the Government was left as the lone defendant in the class action case) from the calls for a different response that would address the need for healing. When challenged in the Legislature regarding the Government's decision to rigorously defend former residents' claims in Court while promising to address the need for healing, Premier Dexter explained that their approach in Court:

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> ...has nothing to do with the question of how we go about dealing with questions surrounding what happened at the Nova Scotia Home for Colored Children]. They have to do with the question of compensation.
>
> Everyone, including the claimants, has the right to ensure that the examinations of those claims is full and complete, based on appropriate evidentiary standards, because that's how we have confidence in the system that we have.
>
> On the other hand, we also have a process, which I have announced, which is designed to look at the larger questions associated with the Nova Scotia Home of Colored Children, the questions associated with social justice...[80]

The Government spent considerable time meeting with members of the African Nova Scotian community concerned to ensure their response would not contribute to a divide or harm to community interests. In doing so, the Government failed to acknowledge the complexity of its own role with respect to the harms and abuses at the Home. Their response suggests they viewed their responsibility as a matter best left for the courts to determine. At the same time, however, they sought to deal with the broader issues of concern for the community and former residents through the appointment of an independent panel.

Former residents had consistently advocated for a public inquiry as part of an integrated response that would take a restorative approach to settling the legal claims and addressing the systemic and institutional nature of the harms as a way forward. At their first meeting with the Premier and other cabinet members, the Government sought assurance that the discussions would be without prejudice and confidential in order to protect their interests in the civil process. VOICES refused such conditions, stating (in a letter from Ray Wagner, their counsel) that they had an obligation to the other former residents to be transparent and inclusive in their advocacy on their behalf.[81] At the meeting, VOICES was clear about their interest in a public inquiry and the need to settle the civil claims in order to create conditions to deal with the issue in a restorative way that would contribute to healing. The Premier indicated that he was not prepared to talk about a settlement and wished to keep the matter of healing separate from the ongoing litigation. The former residents followed up on their meeting with a letter re-stating their position on March 7, 2013. Their letter outlined their proposed two-part process to deal with the allegations regarding the Home. It suggested "1. A mediated resolution of the civil claims, including the proposed class action … 2. The collaborative design of a restorative justice process."[82] The letter clearly articulated that a restorative approach required settling the adversarial civil claims process before moving on to deal with the broader issues of healing. With respect to the need to settle the civil claims, Tony Smith wrote: "I have seen firsthand the harm that the adversarial adjudicative process causes the former residents. This must end if healing is the goal."[83]

On March 26, 2013, the Government addressed its plans for response in the speech from the Lieutenant-Governor opening the session of the Legislature. The Government announced that it would establish an independent panel. It did not provide many details regarding the composition or mandate of this panel. The panel was described in the speech as a means of community healing and there were several references in the speech to the fact the panel will be developed "in consultation with members of the African-Nova Scotian community."

Premier Dexter indicated that he was not ruling out the possibility that he would call the panel an "inquiry" in the future. He said: "People can call it whatever they want. I don't care what they call it… By their nature, panels carry out inquiries. I don't see anything of significance in a particular name."[84] The idea of the panel, as described, was not well received by former residents. Tony Smith commented in the media: "I didn't see anything in there today about the government taking responsibility for their own actions." Former residents also expressed significant concern about the central role of community representatives in determining the way forward. They noted, "there are competing interests within that community, and a process good for others won't necessarily be good for them."[85] Tracy Dorrington-Skinner commented regarding the panel proposed: "I heard a bunch of talk about healing, but the healing is more related to the community than the former residents of the Nova Scotia Home for Colored Children."[86] An editorial in *The Chronicle Herald* on March 28, 2013, agreed with the former residents' position.

> You can't blame former residents of the Nova Scotia Home for Colored Children for being skeptical about the NDP government's proposal this week to investigate — via an undefined "independent panel" — their allegations of past chronic neglect and physical and sexual abuse at the facility.
>
> For as much as government officials say the panel will have teeth and a mandate to dig for truth, whether through testimony or government documents, none of that will be confirmed until the proposed body's terms of reference, powers and personnel are known.
>
> …
>
> Provincial officials have also said they're trying to tread a path that does what's needed and has the widespread support of the African-Nova Scotian community.
>
> But as Tony Smith and Tracey Dorrington-Skinner, both former residents of the Home, aptly noted Tuesday, that community has competing interests.
>
> If former residents of the Home who've alleged abuses are not satisfied with what government ultimately proposes, the province will run the risk of appearing to put mollifying the community ahead of getting answers, ugly as they may be.
>
> The province won't put a timetable on when details of the independent panel will be finalized. It's a complex matter, and certainly must be done right. But for those who've spent years hoping to find justice, including readers who've been following our stories of these horrific allegations for more than a year, this is taking far too long, leading many to question motives.[87]

On May 9, 2013, Premier Dexter announced the establishment of an independent expert panel as opposed to a full public inquiry to examine the history of the Home. Robert Wright, a former official with the Department of Community Services and member of the African Nova Scotian community, was appointed to this panel. His first task was to recommend terms of reference and a mandate for the panel to the Government for their consideration. The panel was appointed while the Government continued to defend the class action suit. VOICES immediately responded with their objection to the panel and indicated that they would not be a part of the panel process because it "doesn't do anything for the victims."[88] At the time, Tony Smith explained to the media, "In order for us to start the healing process there has to be a settlement, meaning that we're no longer in dispute. You can't be in dispute and still try to do the healing."[89] Tracy Dorrington-Skinner, another former resident and co-chair of VOICES, said: "We former residents feel that we're being revictimized by our current government … Whenever we have been given an opportunity to speak, nobody listens to us. They ask us what we want, we tell them what we want and we end up getting what they throw at us."[90]

Premier Dexter responded to the objections of former residents, saying: "I think they have a fundamental misunderstanding of the nature of inquiries and of what these things undertake."[91] The Government's press release indicated that: "Mr. Wright will meet with former residents of the home, and community members to develop terms of reference for a process that will allow former residents to share their stories, examine the response of public policies, programs and services, and provide a means of healing in the community."[92] VOICES held a press conference and shared a detailed statement of their position and the resolution they sought, including details about their understanding of the approach to a public inquiry.[93] They were clear that they would not co-operate with, or participate in, the panel process as proposed.

Former residents did not participate directly in the process led by Robert Wright to recommend the makeup and mandate of the independent panel. Nevertheless, Robert Wright fulfilled his mandate and provided proposed terms of reference for an independent expert panel without their co-operation. His report, however, coincided with the Provincial election, which resulted in a change in Government with the election of a Liberal majority and Stephen McNeil as Premier. The Government response to the abuse allegations at the Home was a central issue in the 2013 Provincial election.

Stephen McNeil had met with former residents on the campaign trail and promised them justice and a public inquiry if elected. When he was elected with a majority government on the night of October 8, 2013, he mentioned his commitment to do right by the former residents in his first media appearance. He subsequently met with members of VOICES to discuss possible pathways forward to resolve their claims and establish the sort of public inquiry former residents were seeking.

On June 3, 2014, it was announced that the Province had reached a class action settlement with former residents, wherein they would pay $29 million to the class. The Government settlement provided for a "lump sum" settlement. This meant that, beyond the general parameters of the settlement agreement, the distribution approach was left up to lawyers for the former residents and the Court-appointed administrator. It was required, however, by the terms of the settlement agreement, that the funds be distributed in a manner consistent with restorative principles. This reflected the determination of the lead plaintiffs to make good on the commitments former residents made to one another. They had agreed that any resolution must leave no one behind, must do no further harm, and must ensure that the first voice was heard and their experiences recognized. Finally, they wanted what happened to them to matter — to make a difference. The former residents recognized their commitments were well aligned with a restorative approach to justice and sought a settlement agreement that reflected those principles and processes.

The settlement figure, and the restorative manner of distribution, was approved by the Honourable Justice Arthur LeBlanc as being fair and reasonable on July 7, 2014, (unreported decision). He appointed the Bruneau Group to administer the distribution of the compensation fund according to the settlement agreement and in consultation with the former residents'

lawyers. The Bruneau Group was a prominent bilingual Canadian settlement administrator drawing from expertise in law, claim administration, financial management, and information technology to deliver class action settlement administration services. Laura Bruneau, the CEO of Bruneau Group, was known for her willingness to take innovative approaches to class action settlements and agreed to work closely with an expert in the field to design the settlement distribution process according to restorative principles.

One of the other issues to be determined with respect to the settlement were the legal fees owed to class counsel (Wagners Law Firm). In a reported decision dated October 16, 2017, Justice LeBlanc awarded legal fees to Wagners Law firm in the amount of $5.78 million (17 per cent). This was a reduction from the $6.6 million sought by Wagners, an amount that already reflected a reduction from the 25 per cent fees provided for in the agreement with class members. The $6.6 sought by Wagners represented a fee rate of 19.4 per cent.[94]

The reduced amount reflected Justice LeBlanc's finding of factual errors in the timekeeping of Wagners Law Firm over the course of the lengthy period of litigation. The judge was also not prepared to acknowledge the relevance of legal work done in the individual actions prior to the class action claim as contributing to the success of the class action because this had not been explicitly covered in the fee agreement with former residents:

> Neither the settlement agreement with the Home (which was approved July 11, 2013), nor that with the Province, provided for the fees and disbursements arising from individual proceedings to be subsumed into the class proceeding… As noted above, in this case, counsel has not pointed to any contractual basis for incorporating fees from the various individual actions into the global amount for the class proceeding. That being said, I am satisfied that the work done in those individual proceedings would have contributed to the eventual certification of the class action, and to the settlement. I am convinced that it would be an injustice to deny recovery of a reasonable proportion of fees relating to the individual proceedings, or rather, to refuse to consider those amounts in determining whether the fee claimed is fair and reasonable.

In addition to legal fees, Wagners sought to recover disbursements/expenses incurred of $457,000 plus HST from the class settlement. The majority of these disbursements were incurred advancing individual cases (experts, interest on loans, etc.). Justice LeBlanc refused to allow Wagners to be reimbursed for these disbursements from the class action settlement fund.

With respect to Wagners' suggestion such a decision would leave some former residents responsible for their own disbursements for individual cases that led up to the class claim,

Justice LeBlanc stated:

> Counsel suggested that the individual plaintiffs would have been left with personal responsibility for disbursements in those proceedings if I did not allow them to be included. I wish to make clear that class counsel should not seek to recover these expenses from the class members. It should not be the client's responsibility if counsel fails to ensure that the relevant fee agreements allow for inclusion of those disbursements.

Former residents were very concerned that Justice LeBlanc know they were supportive of their legal counsel. Former residents credited the law firm with making their access to justice possible by carrying the case for a significant period of time and taking on all of the financial burdens and risks associated with the litigation. The former residents sought to place their views that they had been treated more than fairly by Wagners on the record, but Justice LeBlanc refused to hear from them.

IV. Distributing the Settlement

The settlement agreement was fundamentally shaped by the commitments of the former residents to a restorative approach both in terms of its structure and approach. First, it was agreed that the distribution process itself would be designed and implemented restoratively. Since there was no existing restorative model of claims distribution to follow, it was the responsibility of the Court-appointed claims administrator to work with experts to design and implement (including education and training for those involved) the distribution consistent with restorative principles. A restorative approach was also taken to the overall approach to the settlement in the agreement in order to fulfill the former residents' commitments to one another. The difference this approach made was evident in key aspects of the settlement including:

- **The inclusion of a common experience payment available to all class members, even those pre-1951.** Owing to the determination by the Court during the certification period that residents pre-1951 were not entitled to compensation but only declaratory relief from the Courts, the Government calculated its settlement amount excluding those who lived in the Home pre-1951. Likewise, the amount of money provided to be distributed only included "wards" and did not contemplate compensation for those who lived in the Home but were not wards of the state. As a result, the money was calculated on the basis that pre-1951 and non-wards would not receive money.

  The former residents understood this was the assumptions the Government made when the settlement was offered. However, they were not limited by the agreement in terms of how they could share the money among the class members. They sought to do so in a way that was fair and lived up to the principled commitments they made to one another. The first step they took

towards this end was to decide to provide compensation for the common experience of residents that everyone who lived in the Home would get (pre-1951 and non-ward residents included). This choice meant that post-1951 wards would get less money as a share of the total amount of compensation because they would be sharing it among more former residents. It also meant, though, that no one would be left behind.

The common experience payment recognized that residents living in the Home did not receive the care they deserved. Across the generations, residents experienced neglect and were exposed to or subjected to significant abuse. The common experience payment was also designed in a way to lessen the burden on former residents. The Home and Government were responsible to share information to assist in determining residency at the Home. This information was made available to the former residents to support their claim. Also, former residents could share their story at this stage, if they wished (and further choose to have it shared with the public inquiry, once it was established), or they could choose to simply apply based on their residency at the Home.

- **The settlement process also provided for an assessment process for those who felt their experiences went beyond the common negative experiences of all former residents to include significant or severe physical, sexual, emotional, and psychological abuse.** Where this was the case, and the former resident wished to make a further claim for recognition and compensation, they could apply to the individual assessment process.

  Here again the commitment to do no further harm was front and centre. The former residents agreed to a process that would minimize the harms associated with compensation scales that calculated the value of particular acts — for example, so much money allotted for physical abuse, or sexual abuse, and categories that affected compensation within each of these categories. In the former residents' view, it was more important to focus on the harm experienced and not simply on the acts that were perpetrated against them. In their view, one could not capture the harm experienced by only paying attention to the nature of the abusive act. This would miss much of what was central to former residents' harm. The compensation assessment process design also did not focus on compensation for impact or outcomes. That is, it did not seek to compensate for the harm that resulted in terms of a calculation loss or impact proven.

  Former residents wanted to share the compensation according to the harms experienced, but they did not want to assume they could assess the experience of harm simply from resulting losses or impacts. They were

concerned this would punish those former residents who had been able to undertake the work of healing to minimize the impact of the harm on their lives. This seemed unfair, because the fact they recovered does not mean they were less harmed or do not still experience some harm. Others coped with their past harms by ignoring them, and they may or may not experience significant impacts in future. Still others had their lives devastated by the enduring impacts of the harms they experienced. It would also have been complicated to determine how much of negative life outcomes were related directly to what happened in the Home when some former residents had abusive and harmful experiences before and after their time in the Home.

The decision was to use the best knowledge from experts in childhood trauma to assess all of the factors related to former residents' experience that would enable a sound prediction of the level of harm that would result. A process guide was developed identifying these factors and how they support an overall assessment of relative levels of harm likely to have resulted. Factors included:

- *Severity*
  - Nature of treatment or abuse (abuse can be emotional, psychological, physical, and/or sexual). Severity of abuse does not refer to the type of abuse but the level of the abuse, for example how intrusive, extensive, or extreme.
- *Duration of abuse*
  - Period of time over which abuse(s) occurred
  - Frequency
- *Type of relationship*
  - Authored by person who was trusted
  - Authored by someone with power, authority, or control (real or perceived)
- *Age of onset*
  - Take into account effect of early childhood abuse/trauma on brain development
  - Abuse in later years of adolescence can affect identity formation (especially sexual abuse)
- *Other factors contributing to vulnerability and increased harm resulting from abuse*
  - Length of time in the Home
  - Prior abuse
  - Race (particularly, in this case, being African Nova Scotian and sometimes skin colour within this group)

- Lack of care or support (no caring adult)
- Alienation from family or community
- Gender (consider the effect of intersection between nature of the abuse and gender of the person who caused the harm)

- **The compensation scale had a resulted number of categories and provided common rates for all claimants in the same category.** Former residents were also clear they did not want an overly complicated process that would require extremely detailed information in order to arrive at a precise calculation of the value of a claim. Former residents knew that, while there were some real differences in the level of harm residents experienced, it was not possible to make fine distinctions between their harms. Furthermore, they understood that one of the most important roles compensation would play was as symbolic recognition and acknowledgement of the harm former residents experienced.

  They wanted to ensure that the symbolic value of compensation was not undermined by a process in which former residents had to pay close attention to every detail of their experience to gain a few more dollars and increase the "value" of their harms.

  To meet these objectives, the former residents agreed to a compensation scale that would assess claims based on the resulting experience of harm. The scale had four broad categories: 1) significant harm, 2) very significant harm, 3) severe harm, and 4) very severe harm. Within each category, however, former residents would receive the same amount of compensation. This allowed for recognition of different broad levels of harm but did not create a hierarchy of harm within these categories.

- **The assessment process was approached restoratively — it was non-adversarial and facilitated.** Finally, the way in which former residents engaged within the distribution process was of significant concern for the former residents. They wanted a process in which former residents would feel supported to tell their story and to share their experiences in a way that would help evaluators understand the relevant factors but did not involve adversarial processes. They wanted former residents to have the opportunity to be heard and supported throughout the process. The distribution process was thus designed to include a facilitator who was there to ensure the process went well and the former residents received the support they needed to understand and participate with as little harm as possible. They also designed a non-adversarial process in which former residents would be invited to share

their stories but not be "cross-examined" in the traditional way. It was also significant for some former residents that their experiences be heard more broadly so that they might make a difference for others. In order to facilitate this without requiring former residents to share their stories multiple times if they did not wish to, there was an option to share recordings of their experience and related submissions with the public inquiry when it started. This did not preclude former residents from also participating in the public inquiry.

The former residents recognized that even a process meant to be trauma-informed and do no further harm could be triggering. For some residents, the settlement process was the first time they told anyone about what they had witnessed and experienced as children in the Home. With support from the Provincial Government, the Family Service of Eastern Nova Scotia was engaged to provide health support to former residents during the settlement period through a 1-800 number and with funding for in-person counselling. The distribution of funds was also structured to ensure that the portion of monies dedicated for counselling and wellness was distributed immediately once a determination of a former resident's file was made, rather than waiting for the final distribution of compensation at the end of the process.

The Bruneau Group was hired to serve as Claims Administrator tasked with complying (and ensuring others complied) with the Court-ordered manner for restorative distribution of the $34 million total settlement (including the contribution of $5 million from the NSHCC).

Broadly speaking, the settlement agreement required the Bruneau Group to:

- Hire claim facilitators and claim evaluators
- Receive claim forms from former residents
- Assess whether there existed documentary evidence from the NSHCC objectively demonstrating their residency at NSHCC (pre-1951 residents only needed a signed statutory declaration swearing that they were in the Home, given the state of records available pre-1951)
- Distribute pro-rated common experience payment in accordance with years of residency at NSHCC
- Schedule independent assessment processes for claimants who applied and requested to be part of that process
- Receive, review, and share decision letters of claim evaluators
- Distribute the remainder of the settlement fund, pro-rated, in accordance with the decisions

Former residents were given until February 27, 2015, to complete and send a claim form to the Bruneau Group. Bruneau Group received 358 claim forms by this deadline.

Three hundred forty-two (342) claims were accepted. Sixteen (16) were found to not meet the criteria (no proof of residency [eight], residency after 1989 only [four], deceased before settlement [one], claimant "lost" – made application and then could not be contacted [three]).

The Bruneau Group issued common experience payments to former residents totalling $6,104,000 prior to the independent assessment process. Funds were also distributed before the conclusion of the distribution period totalling $1,176,000 in health supports payments.

The Independent Assessment Processes (IAP) commenced in the fall of 2015. Between October 24, 2015, and February 25, 2016, a total of 283 former residents (post-1951) took part in the Independent Assessment Process. Processes were held across North America. Former residents received their decision letters in June 2016.

Former residents were given the opportunity to appeal the decisions and could do so without fear that their compensation amounts would be reduced on appeal. If former residents felt there was an error in the determination, they would ask for a review by the administrator. If the administrator determined an error was made that benefited the claimant, the amount was not changed. Only if the error was found to disadvantage the claimant was the amount adjusted upward. Former residents had to file an appeal form within 30 days after receiving their decision letter. Forty-five (45) former residents filed appeals within the 30-day deadline. This is a statistically low number within claims distribution processes, especially given the generous appeal conditions that removed disincentives to appeal. The Bruneau Group was responsible for reviewing the appeals for palpable errors/incorrectness. Six (6) appeals were granted.

The table below highlights the IAP decisions breakdown (including appeal decisions):

IAP Claims			
Total IAP in-person evaluations	**283**		
Level of harm	Number of awards	Health support payment	Per cent of class
No harms beyond the common experience	30	–	11%
Level 1: Significant harm	84	$2,000 each	30%
Level 2: Very significant harm	58	$4,000 each	20%
Level 3: Severe harm	61	$6,000 each	21%
Level 4: Very severe harm	50	$8,000 each	18%
Total sum paid for IAP awards at 90.56%	$19,001,839.18		
Total sum paid for health support		$1,176,000.00	
Grand total IAP compensation paid	**283**	**$20,177,839.10**	

After all other portions of the $34 million settlement fund had been distributed, there was $19 million remaining for IAP payments. The other funds covered the common experience payments provided at the early stage of the distribution process ($6,104,000), health support payments ($1,176,000), class counsel fees ($5,780,000), and administration costs for the settlement (including the costs of facilitators, evaluators, travel, and other administrative costs). Each former resident had their IAP payment pro-rated downward by 90.056 per cent. This means that there were enough funds remaining to fund over 90 per cent of the amount contemplated in the settlement agreement. The settlement agreement was crafted based on best estimates of numbers of residents and the value of individual claims. Former residents were aware that, depending on numbers and assessments, the lump sum may not allow the full amounts for compensation levels projected in the agreement. Given that the number of applicants was higher than was anticipated when the numbers were calculated in the agreement, and the original agreement numbers did not contemplate the inclusion of pre-1951 and non-wards, it is remarkable that the reduction in awards was under 10 per cent. Former residents received their final IAP payments in the early fall of 2016.

C. Public Inquiry

The agreement to settle the class action came alongside a commitment from the new Provincial Government to establish a public inquiry. The timing posed some challenges. Ideally the settlement process for the class action claim would have been closely linked to the public inquiry process to ensure a connection between understanding and responding to individual experiences and dealing with the broader systemic issues related to harm and abuse. An integrated restorative process that would have allowed former residents to share their experience one time would have been ideal. Former residents were also aware, however, of how long many former residents had been waiting for some response and that there were some who were aging or ill. They did not want to cause further delay in the settlement process. At the same time, it was important to the former residents that the public inquiry be carefully designed so that it would not be another process about them, but without them. The decision was made to move forward with the settlement distribution while the terms of reference and mandate of the public inquiry still were being determined.

The settlement process was designed, though, in anticipation of the public inquiry process and with knowledge that the public inquiry would take a restorative approach. It was important that the settlement process not run contrary to the principles of a restorative approach. It was also important that the information and experiences shared within the settlement process inform the public inquiry process to ensure the experience of former residents was central to the inquiry without additional burden on former residents. One of the ways this integration was possible between the processes was through the involvement of the same group of people from VOICES, Government, and external experts supporting the development of both aspects of the response.

In the end, the settlement process and the Inquiry did overlap. The final decisions for the settlement were made in June 2016 and the final funds distributed in fall 2016 during the first year of the Inquiry. This was an important factor to consider as the Inquiry sought to involve and support former residents to participate in the Inquiry.

The other significant and important overlap was with the Government apology that was offered in the early stages of the design process for the Inquiry and while the settlement distribution process was underway. As the design work progressed, it became clear that a restorative approach to an inquiry would meet with greater success if the key parties acknowledged and took responsibility for their roles in the harms that former residents experienced. On October 10, 2014, Premier McNeil delivered a formal apology on behalf of the Province to former residents of the Nova Scotia Home for Colored Children, and to the African Nova Scotian community.

VOICES co-chairs and members of the Legislative Assembly at the Official Apology, October 2014

Apology to Former Residents of the Nova Scotia Home for Colored Children On behalf of the Government of Nova Scotia

I apologize to those who suffered abuse and neglect at the Nova Scotia Home for Colored Children.

It is one of the great tragedies in our province's history that your cries for help were greeted with silence for so long. Some of you have said you felt invisible. You are invisible no longer.

We hear your voices and we grieve for your pain. We are sorry.

Some of you faced horrific abuse that no child should ever experience. You deserved a better standard of care. For the trauma and neglect you endured, and their lingering effects on you and your loved ones, we are truly sorry.

We thank you for showing such courage and perseverance in telling your stories. Your strength, your resilience, and your desire for healing and reconciliation should be an inspiration to all Nova Scotians.

To the African Nova Scotian community: we are sorry. The struggle of the Home is only one chapter in a history of systemic racism and inequality that has scarred our province for generations.

African Nova Scotians are a founding culture in our province — a resourceful people of strength. The Home for Colored Children was birthed in the community as a way to meet a need that was not being met.

We must acknowledge that in many ways, and for many years, we as a province have not adequately met the needs of African Nova Scotian children and their families. We are sorry.

As Nova Scotians — as a people, walking together — we must do better. An apology is not a closing of the books, but a recognition that we must cast an unflinching eye on the past as we strive toward a better future.

We are sorry for your suffering, we are grateful for your courage, and we welcome your help in building a healthier future for all of us.

Honourable Stephen McNeil, Premier of Nova Scotia

Restorative Inquiry, courtesy of Communications Nova Scotia

Premier Stephen McNeil delivering Official Apology, October 2014

Subsequently, at the formal launch of the Inquiry, the apology on behalf of the Nova Scotia Home for Colored Children was made. The timing of these apologies was significant in terms of the settlement process. It meant that compensation was provided to former residents along with explicit acknowledgements of responsibility for the harms experienced and apologies for that harm. The Government apology was included with the compensation cheque sent at the end of the settlement distribution process.

The Government was aware that VOICES had a vision of what a public inquiry should entail. They had advocated for a process different from a traditional public inquiry, which is typically a judicial process where a commissioner or commissioners summon witnesses, gather evidence, and issue a final report with recommendation for what should be done after the inquiry. Former residents wanted to maintain their commitment to "do no further harm" to each other or to anyone else in the process. VOICES recognized that asking former residents to testify in a traditional inquiry setting could potentially be triggering or harmful. VOICES also wanted an approach where the parties who would be considered most "at fault" in a traditional model — including the Province and the Home — could engage as partners rather than from a defensive position. Ultimately, they wanted a process focused on making a difference for the future.

Ujima design team members

The Premier indicated to VOICES that he wanted former residents to shape the terms of reference for the inquiry. After meeting with Government officials who originally sought VOICES' input on a model, VOICES suggested a design process for the public inquiry that would bring together those who were key to its success. The former residents identified the parties who should be invited to be a part of a collaborative design process and suggested it be facilitated by Jennifer Llewellyn, an expert in restorative principles. It was significant that Government agreed to participate in this process and fully empower it to set the terms of reference and mandate for the inquiry. The design group was not merely asked to provide recommendations. The Government made a commitment to a public inquiry and then undertook setting mandate and terms of reference through a collaborative facilitated process in 2014. Government did not give up its power to make these determinations, rather, it exercised its decision-making authority in partnership with others through this design process. In this way, the design process modelled the approach that would be key to this Restorative Inquiry. The Government membership of the design team included the Deputy Minister to the Premier, the Executive Director for the Office of the Status of Women, and a representative from the Office of African Nova Scotian Affairs and the Nova Scotia Human Rights Commission. The design group included three former residents (VOICES); one

legal expert trusted by former residents; five representatives from Government; two members of the NSHCC Board; three members of the African Nova Scotian community; and a facilitator with expertise in restorative process. The group had expertise in law, policy, and governance; African Nova Scotian history and community; racial justice; inquiry processes; community-based processes; restorative justice; human rights; gender analysis; and communications. This team began its work in September 2014 and adopted the name Ujima, the Africentric principle of collective work and responsibility. In Nguzo Saba (the seven principles of Kwanzaa), Ujima is defined as "to build and maintain our community together and make our brothers' and sisters' problems our own, and to solve them together."

Ujima design team working session

From the beginning, the design team had to contemplate not only how to design a public inquiry in a restorative manner, but how to operate restoratively with each other in the design process. For example, while the Home Board settled its part of the class action suit, many former residents — including those in the design process — did not feel the terms and language in the settlement went far enough in taking responsibility for what happened and acknowledging former residents' pain. Former residents and past and current Home Board members on the design team had to work through their tensions to engage and work with each other in the design process. The process itself became a model of how the Restorative Inquiry could work.

As the design team crafted an approach and model for the Inquiry it reached out to other potential participants in the work, including the staff and Board members of Akoma, the executive of the AUBA, Halifax Regional Police and RCMP, and municipal and Provincial leaders. One of the central tenets of the Restorative Inquiry was building relationships and connecting parties to their role and responsibilities to build the future together. This work began in the design phase as a way of inviting people into the process as partners prepared to engage and work together.

Minister Tony Ince at Restorative Inquiry launch, June 2015

It was also important to ensure the conditions that would allow all parties to participate fully in the Restorative Inquiry. One of the significant issues that presented itself early on in the

design process was the concern that individuals might not feel free to participate for fear that they would be exposed to criminal or civil liability as a result of something they said or shared. This was not only a concern for those from Government or the Home, but also for former residents who might not feel able to share their experience fully. The design team proposed a change to *Nova Scotia's Public Inquiries Act* to address this issue. On November 20, 2015, the Nova Scotia Legislature passed an amendment to the *Public Inquiries Act* providing that:

> No testimony or other statement given at an inquiry by a witness or other participant may be used or received in evidence against the witness or participant in any trial or other proceeding against the witness or participant, other than a prosecution for perjury in giving the testimony or statement.

The Restorative Inquiry's mandate and terms of reference were formally introduced on June 12, 2015, at Emmanuel Baptist Church, the site of VOICES' first reunion for former residents. Participants were invited to light candles as a symbol of joining the former residents' Journey to Light, and to sign a Statement of Commitment acknowledging their support for the inquiry. (For text of Statement of Commitment, see Chapter 2)

These symbolic gestures also served as a way to change people's expectations of what a public inquiry looks like and to invite them into a different way forward. Despite the fact that the Statement of Commitment was not binding, but, rather, marked an invitation to participate in the Restorative Inquiry in a different way at the outset, some parties felt unable to sign for fear of creating liability.

Premier McNeil at Restorative Inquiry launch, June 2015

Restorative Inquiry, courtesy Communications Nova Scotia

Following the announcement of the terms of reference and mandate of the Restorative Inquiry, there was significant work to do to launch the work of the Inquiry. An Interim Council of Parties was appointed to establish the operating entity required to support the work of the Restorative Inquiry and to hire the initial staffing complement and appointment of the permanent Council of Parties. The Council of Parties was officially appointed on Nov. 2, 2015. With this appointment, the work of the Restorative Inquiry officially began.

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CHAPTER FIVE

Understanding the History, Context, and Experience of the Nova Scotia Home for Colored Children

Introduction

Guided by the symbol of Sankofa, the Restorative Inquiry was mandated to look back to the past to fetch what is needed to move forward. Through our research and processes, we sought to learn from the past — to come to understand not only the facts about what happened, but why it happened — and then to determine what matters about what happened to inform the way forward to a better future.

In particular, the Inquiry was mandated to:

EXAMINE the experience of the Nova Scotia Home for Colored Children (NSHCC, the Home) as part of the history and legacy of systemic and institutionalized racism — both historic and current — in Nova Scotia.

EXAMINE and seek to understand the experiences of former residents within the NSHCC and the legacy and impact of these experiences for former residents, their families, and communities.

EXAMINE the experiences of former residents within the NSHCC for what they might reveal about issues of institutionalized child abuse and prevention and protection in the future.

INQUIRE into how the history and legacy of the NSHCC has impacted not only African Nova Scotian communities but all peoples in Nova Scotia and consider how to address this harmful legacy. To reveal, reckon with, and address this part of the harmful history and legacy of anti-Black racism in the Province of Nova Scotia.

EMPOWER those involved in, and affected by, the history and legacy of the NSHCC to learn about what happened and the contexts, causes, circumstances, and ongoing legacy of the harms related to the NSHCC.

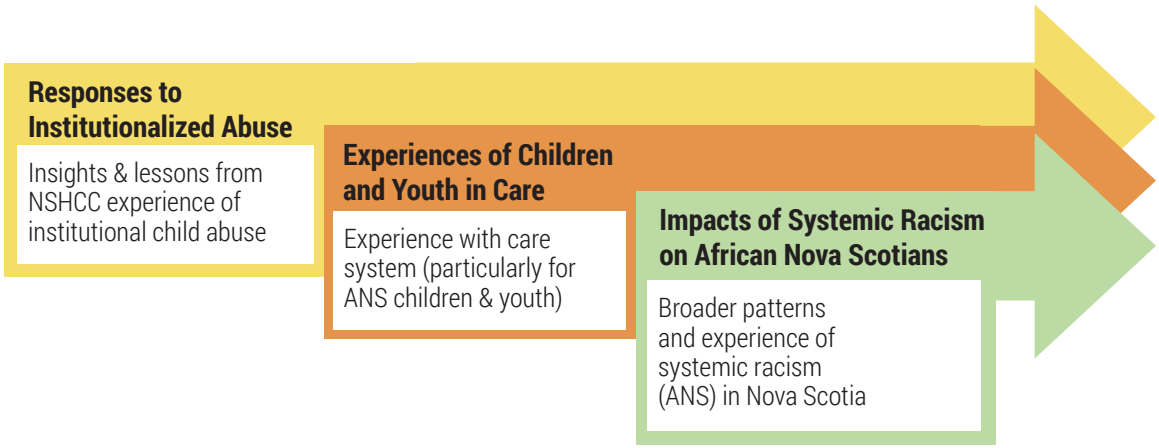
EXAMINE the role and contribution of various systems, sectors, and institutions in the harmful history and legacy of the NSHCC, including, for example, education, justice, health, and community services.[1]

Chapters 3 and 4 of this report offer an overview of the relevant history of the NSHCC and the response to abuse as former residents came forward to seek justice for their experiences at the Home.

The Inquiry was not mandated to produce a definitive and exhaustive history of the Home or the related issues and influences that shaped the history, operations, and impacts of the institution. We have attended to the issues most central to the story of the Home, as well as the contexts, causes, and circumstances influencing it to support learning, understanding, planning, and action among parties within this process. This work requires a robust and complex understanding of what matters most about what happened in order to ground action aimed at making a difference for the future. This commitment has guided the Inquiry's approach to the

task of examining the history of the Home throughout our work and in this report. Rather than simply compile and catalogue facts about what happened at the Home, we have sought (in this report and throughout the Inquiry processes) to find and provide information in a way that will support an understanding of what matters about what happened from the point of view of making it matter for the future.

This chapter considers this history and seeks to understand the contexts, causes, and circumstances of what happened with the Home. It does so with particular attention to the three issues central to the mandate of the Inquiry.



Central Issues Framing the History of the Nova Scotia Home for Colored Children

The Restorative Inquiry was established in response to the abuse former residents experienced at the Home. The abuse, however, was part of a broader story of the experience of former residents within systems that were meant to care for them. Though the central point for the Inquiry was the abuse experienced by former residents, a full understanding of the impact and legacy of this abuse requires a recognition that the origins of the Home are grounded in the province's racist history. This history contributed to the conditions and circumstances that generated the need for care and fundamentally shaped the nature and scope of the care offered. This context, and the related assumptions and structures, resulted in the failures of care, as well as the abuse and harms experienced by former residents, their families, and the African Nova Scotian community more broadly.

It is helpful, in our bid to understand the significance of the history of the Home, and the response to abuse, to start our analysis with attention to systemic racism. As defined and discussed further in this chapter, systemic racism is an important contextual lens through which to examine and appreciate the other central issues of the Inquiry: the experience of the care system and institutional abuse (failures of care).

It is important, however, as we proceed, to be reminded that it is not possible or helpful to treat these central issues as separate and distinct from one another. As the history of the Home and the experiences of former residents' attest, these issues are deeply intertwined. The story of the Home is not a simple one. It cannot be reduced to a single or overriding issue. This is why the Inquiry approached the three issues as overlapping and intersecting and recognized that it is their interrelation that produced the complex story of the Home as an institution and the experience of former residents.

The story of the NSHCC is intertwined with the *story of child welfare* in Canada and reflective of *patterns of institutional abuse of children*. It is also deeply embedded in the *history of systemic racism in Nova Scotia*. It is, at once, a story of each of these and the intersection of all these histories. It is also a story of resilience and self-reliance of the African Nova Scotian people and of former residents on their journey to light.

As the previous chapters reveal, and this chapter examines, the story of the Home is embedded and reflective of these intersecting histories and developments in society over its 100-year history. The history of the Home cannot be abstracted from the larger stories of:

- the African Nova Scotian people — their resilience and perseverance — expressed through different strategies advanced in the face of a racialized society and racism
- racism (individual, institutional, systemic, structural) in Nova Scotia throughout history and ongoing today
- changing ideas and perceptions of men, women, children, families, and caregiving
- developments in the ideas and systems of child welfare in Nova Scotia and, more broadly, in Canada/North America
- the legal response to allegations of institutional abuse and failures of care more broadly

It is neither the objective nor the role of this report to consider each of these histories and issues in detail. Rather it seeks to consciously recognize and consider the influence and connections in a bid to offer a picture of the complexity and significance of the Home, its history, and legacy. Attention to the complex and relational nature of the issues, experiences, and impacts has been essential throughout the Inquiry process to understand and identify what is required in order to move forward in a better way.

Part 1: Systemic Racism

The mandate of the Restorative Inquiry clearly compels attention to the experience of the Nova Scotia Home for Colored Children (NSHCC) as part of the history and legacy of systemic and institutionalized racism, both historic and current, in Nova Scotia. The history of the Home is a powerful and instructive example of racism in Nova Scotia. Understanding the racism that informed and influenced the history of the Home requires an appreciation of racism that goes beyond individuals and individual acts. Clearly, the experience of the Home for those most affected must be understood through the lens of racism to fully appreciate the harmful and lasting impacts. However, the experiences of racism were often not at the hands of an individual but were ever present in the systems surrounding the Home and the operation of the institution itself.

Senator Murray Sinclair explained in his testimony in 2017 before the Senate Standing Committee on Canadian Heritage as part of its study on how the Government could take action on systemic racism and religious discrimination:

> People have a hard time understanding what systemic discrimination is and what systemic racism is. This is because it's not the kind of racism that comes necessarily from the behaviour, words, and actions of individuals, other than the fact that they are guided by the system in which they are functioning. The phrase that I always like to use is that systemic racism is the racism that's left after you get rid of the racists. Once you get rid of the racists within the justice system, for example, you will still have racism perpetrated by the justice system. This is because the justice system follows certain rules, procedures, guidelines, precedents, and laws that are inherently discriminatory and racist because those laws, policies, procedures, processes, and beliefs – including beliefs that direct individuals on how and when to exercise their discretion – come from a history of the common law, which comes from a different culture, a different way of thinking.[2]

Racism was a structuring influence and factor shaping the systems of care, the Home, and the experience of former residents within the Home.

The Inquiry has benefited from existing scholarly and practical consideration of definitions of systemic racism in our work. It has been essential to understand racism beyond the individual level and to appreciate its structural, systemic, and institutionalized expressions. There are many different definitions and explanations of these ideas that provided insight for our work.

Early and influential attention was given to the idea in the United Kingdom as part of the Inquiry into Matters Arising from the Death of Stephen Lawrence in 1999. The Commission for Racial Equality (CRE) offered the following explanation in their submission to the UK Inquiry:

> Institutional racism has been defined as those established laws, customs, and practices which systematically reflect and produce racial inequalities in society. If racist consequences accrue to institutional laws, customs or practices, the institution is racist whether or not the individuals maintaining those practices have racial intentions.[3]

The Inquiry concluded in its final report:

> Taking all that we have heard and read into account we grapple with the problem. For the purposes of our Inquiry the concept of institutional racism which we apply consists of:
>
> The collective failure of an organisation to provide an appropriate and professional service to people because of their colour, culture, or ethnic origin. It can be seen or detected in processes, attitudes and behaviour which amount to discrimination through unwitting prejudice, ignorance, thoughtlessness and racist stereotyping which disadvantage minority ethnic people.
>
> It persists because of the failure of the organisation openly and adequately to recognise and address its existence and causes by policy, example and leadership. Without recognition and action to eliminate such racism it can prevail as part of the ethos or culture of the organisation. It is a corrosive disease.[4]

Their definition was focused at the level of an organization, perhaps in response to their mandate to consider the issue in the context of policing. It is, however, equally relevant at the level of systems and social structures. What is particularly significant for the work of this Inquiry is the way in which the definition recognizes the operation of racism beyond the individual level. Doing so paints a much more layered and dynamic picture of how racism operates. In response to this Inquiry Report, a team at University College London considered the notion of institutional racism and identified seven (7) factors that contribute to its complexity:

1. Institutional racism occurs at many levels inside and outside an organization.
2. It is intersectional; the impacts of instituional racism are linked to other forms of marginalization and discrimination.
3. Institutional racism is fluid; it changes over time and changes to ensure that the disparities continue.
4. It is linked to the ideology of an organization; for instance, the rise of evidence-based medicine led to disparities because the system had not produced evidence for interventions that would work equally for racialized populations or for interventions that would promote health equity.

5. The problem is organizational; though organizations are made of humans and people make decisions, institutional racism lies in the processes and policies of an organization. It is in the swim lanes that are developed to marshal behaviour in an organization. It is in the differential action of the laws, processes, and practices of organizations.
6. Because institutional racism lies in the fabric of organizations, institutional racism can occur in organizations that do not intend to discriminate.
7. Last, institutional racism lies not only within organizations but in the links between organizations. Organizations should understand that they are responsible to try to decrease disparities even if they are because of the actions of another organization. For instance, if there were increased rates of incarceration for African Caribbean youth in forensic mental institutions because of increased police charging of this group, that would not excuse the National Health Service in the UK from needing to have a strategy to decrease these disparities.[5]

Throughout the work of the Inquiry, we have sought to recognize and reveal the complex and deeply embedded ways in which racism structures and influences society and the systems and institutions in and through which we regulate, serve, and support children and youth, and their families and communities.

This definition considers the idea of institutional racism; however, it is important not to be fixated on the term in ways that limit the insight that is most significant: the shift from an individual focus to the collective level. This shift draws careful attention to the ways in which racialized and racist assumptions are embedded in the structures and operations of institutions, systems, and societal structures.

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It has been helpful in the work of the Inquiry to consider these different descriptions of racism as a means of recognizing racism as it exists at these various levels. It is not our contention that these are categorically distinct or different types of racism. We do not seek to distinguish one from the other with precision. Indeed, the terms are often used in tandem or interchangeably, reflecting the deep interconnection and overlap in these ideas. The use of different terms seems to contribute to confusion about what is meant by these terms. We do not think there is significant value in parsing words — especially since, in this case, they reflect a common attempt to draw attention to the ways in which racism needs to be understood and addressed beyond the level of individual behaviour. The use of different terms brings attention and clarity to the various ways in which racism operates at this deeper level. Throughout the work of the Inquiry, we have sought to recognize and reveal the complex and deeply embedded ways in which racism

structures and influences society and the systems and institutions in and through which we regulate, serve, and support children and youth, and their families and communities.

We have come to understand that racism can operate at institutional, systemic, and structural levels. We use all of these terms to examine the history and experience of the NSHCC. For further clarity, the following explanations have been helpful in our examination of the various expressions and impacts of racism in the history of the NSHCC and the experience of former residents.

- **Institutional racism:** The term institutional racism is often traced to Kwame Ture (formerly known as Stokely Carmichael) and Charles Hamilton in their 1967 book *Black Power: The Politics of Liberation*.[6] They used the term to address the ways in which racism is built into the structures of social institutions through policies and practices. The Aspen Institute defines it as "the policies and practices within and across institutions that, intentionally or not, produce outcomes that chronically favor, or put a racial group at a disadvantage."[7] Institutional racism can then be intentional, overt, and direct (designed to achieve racist objectives and outcomes) as in the example of apartheid, Jim Crow laws, or the Indian residential school system. Institutional racism can also be unintentional, implicit, and indirect — a product of a racialized society. This enables racism to operate and continue even without overt actions of individuals within institutions. Another way in which institutional racism is sometimes used is to contrast individual racism with the ways in which the assumption and logic of racism can be institutionalized — meaning established at the level of practice or custom — as part of the ways in which things work. It is not, thus, narrowly concerned with the structure of institutions as entities.
- **Systemic racism:** The term systemic racism is sometimes used to draw attention to the ways in which racism can exist in how institutions interact within a larger system. The claim that racism can be systemic is not inconsistent with, and, in many cases, is not different from, the idea of institutional racism. Rather, it is an attempt to ensure attention is paid to the ways institutions operate within larger system structures that is relevant to an understanding of the way racisms works. It is sometimes difficult to recognize the impact of racism as being greater than the sum of individual institutional expressions because the institution's role in systems is obscured by a siloed and fragmented approach to governance and service delivery. It has been particularly important, through the work of the Inquiry, to pay attention to the collective impact of institutions at systemic levels from the perspective of those who are the subject of regulation and governance. From this vantage point, the impact of the systemic nature of institutional racism becomes clear.

- **Structural racism:** This term is also often used interchangeably with both institutional systemic racism. It similarly reflects the way in which racism is embedded at a foundational level in the ways in which institutions and systems are structured through law, policy, procedure, practice, and culture. The word "structural" is often used to point to the broader social context out of which, and in which, institutions and systems operate. It speaks to the significance of the racialized structure of social life. The Aspen Institute explains, "[s]tructural racism is not something that a few people or institutions choose to practice. Instead it has been a feature of the social, economic and political systems in which we all exist."[8] It draws attention to the fact that race structures individual identities, relations, and assumptions and understanding of one another in ways that inform our social fabric and the culture of groups, communities, organizations, systems, and institutions. The term "structural racism" also encompasses the societal relations between groups.[9]

Those who experience systemic racism often face the burden of proving it is racist, and absent a single source, such as an individual person or policy or intention, it is a difficult, if not impossible task.

It is difficult for people to grasp racism when it operates at this level. Racism is still largely understood through the lens of individuals and as an individual action or behaviour. It makes it difficult to recognize racism if we only look for the individual racist or racist act. Of course, individual racism exists. We are not making the case that society has moved past this expression of racism. But it does not only exist at this level, and the pervasiveness of this individual understanding of racism often hinders the work of revealing and addressing racism in Nova Scotia. This is not to suggest that we should ignore individual experiences of racism. In fact, attention to the experiences of those affected (rather than simply focusing on identifying those who are to blame) requires a recognition that there can be harm — victims — without an individual who intended or caused the harm. The impacts are no less personal or devasting when there is no individual to blame. Indeed, the focus on racism as an individual act has sometimes caused further harm to those who are impacted and harmed by racism that cannot be attributed to an individual. It obscures the nature of their harm as racist and/or resulting in disbelief or denial of the racism.

Those who experience systemic racism often face the burden of proving it is racist, and absent a single source, such as an individual person or policy or intention, it is a difficult, if not impossible task. It is also the case that when and where there are individual acts of racism, the impact such acts have on people of colour is amplified because of the systemic nature of racism. This, too, is often missed or misunderstood in the understanding and response to the impact of racism. The story of the Nova Scotia Home for Colored Children and the impact and legacy of this

experience requires contextualization within a deeper, structural analysis of racial injustice. It requires our careful attention and commitment to understanding racism at this collective level if we are to be successful in our efforts to address it.

Insofar as these are different expressions of the idea that racism is embedded in the way things work and in how we think things should work, which term we use does not matter. Drawing upon the definition offered by Dr. Kwame McKenzie of the Wellesley Institute, we think that key to all three definitions — institutional, systemic, and structural — is the idea that racism occurs when an institution (or set of institutions working together as a system of social structures, norms and patterns) creates or maintains racial inequality. This can be unintentional and does not necessarily mean that people within an organization are racist. It is often caused by hidden institutional, systemic, or societal biases in policies, practices, or norms that privilege or disadvantage people based on race. It can be the result of doing things the way they've always been done, without considering how they impact groups differently.[10]

The use of a variety of terms is helpful if it shifts our focus in ways required to address the problem. For this reason, the Inquiry uses these terms interchangeably to assist in our understanding of the operation and impact of racism in shaping the NSHCC, the system of care within which it operated, and the experience and responses to the harm and abuse that resulted.

As a result of the complexity and multi-leveled nature of racism, it is not uniform or static in its presentation or experience. It is tied to and influenced by the different positions and histories of groups and communities within society. As the Canadian Senate Standing Committee on Canadian Heritage recognizes, "[v]arious racialized communities may experience racial discrimination differently based on their specific history of exclusion and marginalization in Canada and the stereotypes that have developed about their community members."[11] We know this is true in the case of the NSHCC. The racism reflected in and affecting this institution is rooted in the unique history and experience of the African Nova Scotian people.

A. NSHCC: An Example of Institutional, Systemic, and Structural Racism in Nova Scotia

The complex understanding of racism as it exists at individual and broader levels helps make sense of the complex story of the NSHCC. It explains how people can operate within systems and institutions and be part of producing and reproducing racism unintentionally and may be unaware of its impacts. It also makes clear that those who are victims of racism can participate in the very systems by which their harm and oppression is achieved. This was the case with the Home. It was evident in some of the strategies adopted by the African Nova Scotian community in support of the founding and operations of the Home, including the alliances struck with influential leaders in the white establishment. It was also evident in the ways the Home marketed itself to garner support from the white community.

This concept helps overcome a significant barrier to viewing the NSHCC as an example of racism in Nova Scotia. The failure to understand systemic racism has led some to struggle to recognize the NSHCC as an example of racism because the abuse that former residents described came at the hands of African Nova Scotian employees and the institution was the vision of leaders of the African Nova Scotian community. Even for those who acknowledge the racism that impacted the Home, the failure to appreciate the systemic nature of racism has led to inaccurate or misplaced assumptions or interpretations of its history. For example, many believe the Home must have been controlled by the white majority in order to be a racist enterprise. Others identify racism in the fact that the Home had to be established because there was no place for Black children in the care system and/or in the claim that the Home was underfunded relative to other child caring institutions because it served Black children. These simple accounts of racism are attractive (although painful and difficult) because they are framed by a familiar and accessible narrative of racism.

As the examination of the history of the NSHCC reveals, however, these simple stories are not accurate. This does not mean that the claim of racism is wrong — it is clearly not. The story of the Nova Scotia Home for Colored Children is one of racism. But it is not a simple one; understanding the racism requires a more nuanced and complex account of the structure of society, systems, and the institution itself. The lens of racism as institutional, systemic, and structural invites us to look again at the history of the NSHCC and the story it tells of the operation, impact, and legacies of racism in Nova Scotia.

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Through the Inquiry process, we have come to examine and re-examine the significance of elements of the history of the NSHCC. This analysis has been foundational to the work within the Inquiry to learn from this past to inform the way forward for a more just future. An examination of the history of the Home through this lens requires then a more nuanced consideration of some of the common claims and issues related to the Home. It is necessary to revisit the commonly held ideas about the Home from this perspective to ensure it is accurate. It is also essential, if we are to fulfil our mandate and commitment to the former residents, to consider the key claims and elements — view of history — through this new lens. Only then can we come to understand the complex picture of the institution and the ways in which racism played a significant part in its operations and the experiences of former residents.

B. The History of the NSHCC Through the Lens of Systemic Racism:

The history of racism in Nova Scotia contributed to the very notion of a home for colored children. As discussed in Chapter 3, the experience of anti-Black racism in Nova Scotia is not uniform — the history and experience of historic African Nova Scotian communities in Nova Scotia has resulted in unique experiences of racism in the province, and these experiences rest at the core of the history and experience of the NSHCC. Black communities in Nova Scotia have a history that reaches back over 400 years. From these very initial stages, Black loyalists and other Black settlers established communities to support one another in the face of inequality and adversity brought on by failed promises of land and opportunities.[12]

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> The settlement at Birchtown and the other Black communities established a pattern that would become typical in Nova Scotia. Black communities were comprised of family groups who relied on each other for comfort and support. They were forced to locate away from white communities to remain unmolested, but close enough to them so that markers and work opportunities could be accessed. Community leaders had to continually petition the government for the land and provisions that were promised to them. … Family, church and school became the hallmarks of all Black communities in Nova Scotia.[13]

The Nova Scotia Home for Colored Children was initially envisioned as an institution to support "uplift" of African Nova Scotians. It was part of "a new era of race consciousness in North America"[14] that began at the start of the 20th century. "In Nova Scotia, Black sports clubs, philanthropic associations and social action groups, both religious and secular, had started to organize in communities throughout the province."[15] The creation of a separate institution, while obviously serving the interest of a racialized society to maintain segregation and limit the pursuit of equality by the logic of separate but equal in social relations and services, was also fed by the ethos of self-reliance, resilience, and resistance of the African Nova Scotian people. This is part of the complexity of systemic racism — it is not only marked by victimization and harm, but by survival and strength. The story of the failure of care at the NSHCC was resisted and silenced because it threatened to undermine this other positive story of the African Nova Scotian community and the place of the Home in that story.

The creation of a separate institution, while obviously serving the interest of a racialized society to maintain segregation and limit the pursuit of equality by the logic of separate but equal in social relations and services, was also fed by the ethos of self-reliance, resilience, and resistance of the African Nova Scotian people.

The Home started as the vision of a "new generation of African Nova Scotian leaders [who] emphasized education as the means to fight for social justice and against discrimination."[16] This movement was inspired and influenced by similar efforts in the United States, notably the work of Booker T. Washington and his establishment of the Tuskegee Normal and Industrial Institute.

It was also inspired by the commitment to Christian nurture and charity of the historic Black Baptist churches in the African Nova Scotian communities and the AUBA. As discussed in Chapter 3, Church and the ABA, and later the AUBA, played a central role in African Nova Scotian communities. As described in the AUBA minutes in 1918, "the Colored Race in Nova Scotia has no other Institution to look up to but the Church. All our movements of uplift emanate from her, and the higher her vision and greater her foresight, the higher will the status of citizenship be for those who keep within gunshot of her aims."[17] Given the place of the Church, it was natural that the AUBA would have a leadership role in the Home. It is also significant, however, that other churches were engaged in similar child caring initiatives as a key expression of their Christian mission. This was another contributing factor with respect to the AUBA's role with the Home, as the AUBA took up this leadership role alongside other Christian churches. In particular, the newly formed Ladies Auxiliary of the AUBA (1917) offered significant support for the vision and establishment of the Home.

> …in the 19th century, churches formed the backbone of most communities. Their leaders provided spiritual guidance, they organized and provided for schools, and they were often the sole source of welfare for those in unfortunate circumstances. [18]
>
> …
>
> The AUBA became the most important religious, social and political organization in the lives of most African Nova Scotians.[19]

While there was clearly significant leadership in the initial vision and ultimate establishment of the Home, there was also significant compromise required. The transformation from the initial vision of an industrial school to the orphanage that opened in 1921 was the result of many complex factors. It was not simply the aftermath of the Halifax Explosion that caused this shift out of necessity (it was not because of a destroyed first Home nor an urgent increase in children in need). There was damage to the original site acquired for the Home, but even that site had been envisioned as a temporary place until the Home outgrew the space if demand increased. In a letter seeking to lease the cottage on the site of the Industrial School in Halifax, Superintendent Blois explained:

> My department has been looking for some time for a house, which we might lease for one or two years, for the purpose of having a temporary home for small colored children, and it occurred to me that the Board might favorably consider leasing that house and ground for that purpose. The Legislature at the last session appropriated a sum of money for this purpose and I have been instructed by the Premier to endeavor to secure a location for temporary quarters only, until we find out the extent of our requirements.[20]

Demand did increase ahead of the one- to two-year window — indeed, even prior to actually beginning operations on the Industrial School site. This was perhaps attributable, in part, to the explosion and to changes in the law that prohibited children and youth being resident in poor houses. But seeds of this changed vision and focus for the Home were sown well ahead of the upheaval of the explosion. There were tensions between the idea of a training institute and an orphanage from the earliest stages. This is evident in the discussions of the Home, in the minutes of the AUBA, and even in the legislation which established the entity with a broad mission including care and education.

One of the significant factors at work in the final shape of the Home as an orphanage seems to be increased public and Government support for enterprises of child welfare following WWI and the Halifax Explosion. It was more than a mere matter of opportunity for those leading the cause of establishing the Home. Finding support from the white community — in particular from philanthropists, and public leaders, including politicians — was a necessity because of the need to access and leverage both power and resources to realize the vision of the Home. The vision and establishment of the Home was constrained by what leaders in the white community would support. For example, a letter from Ernest Blois to George Murray (two of the prominent white leaders in the establishment of the Home and in child welfare in Nova Scotia) reviewing the proposed site for the NSHCC on the farm near Preston in 1918 acknowledges a divide on the committee along racial lines in terms of the vision for the institution, with leaders from the Black community supporting "something more in the nature of an institutional training school … on a smaller scale, as the well known Boker [sic] Washington Schools in the United States," and the members of the committee from the white community backing an "institution to care for neglected colored children along the lines of our orphanages for white children."[21] Collaboration and compromise was necessary. Some have taken this as a sign that the entire project was controlled by self-interested white majority leaders. While one cannot deny the mix of self-interest with the humanitarian impulses of those white

Finding support from the white community — in particular from philanthropists, and public leaders, including politicians — was a necessity because of the need to access and leverage both power and resources to realize the vision of the Home. The vision and establishment of the Home was constrained by what leaders in the white community would support.

leaders involved in the Home, this should not undermine the leadership and accomplishment of those in the African Nova Scotian community involved in establishing the Home. Lafferty points out that such a view was prevalent at the time the Home was founded and fed into racist views of the capacity and capability of African Nova Scotians. She notes, for example, that,

> ...the *Morning Chronicle* granted full credit for the eventual opening of the home not to [the African Nova Scotian community and leaders] but to Henry Bauld, a prominent white businessman from Halifax, a member of the provincial legislature for the Liberal Party, and the man who would serve as president of the NSHCC's board for thirty-three years. Certainly, Bauld maintained a consistent and influential interest in the home throughout his life, and his support for the institution and its inmates was unquestionably sincere. But in the view of the *Morning Chronicle* he was a champion, a white hero of the underprivileged, downtrodden black man; to his "personal interest in these people, perhaps more than any other factor, is due the splendid institution opened yesterday." Virtually ignoring the labour of the AUBA and men like Kinney (whose "tireless and continuous" effort Bauld himself credited as the sole cause for the home's successful opening), the paper implied that Bauld had almost singlehandedly orchestrated the home's creation.[22]

This view that the success of the Home was because of a white man was, Lafferty points out, consistent with the general view of the capabilities of Black men at the time. It was also clearly fed by the close relationships and compromises forged between African Nova Scotian leaders and prominent white philanthropists.

Such compromises were a strategic necessity to secure resources and support for an enterprise such as the Home. Indeed, it continued throughout the history of the Home, not only at its founding. It is also significant, as noted in Chapter 3, that visions for the Home within the white establishment also aligned with the view of some within the African Nova Scotian community. It is not surprising that, in such circumstances, the vision of the Home and its contribution to the project of racial uplift was shaped by the support available from the white majority. This is a consequence of the structural nature of racism. It is wrong though, in our view, to assume that the Home was solely a project of white leaders and to deny the significant agency of African Nova Scotian leaders in its establishment.

The need for the Home also speaks significantly to the structural and systemic racism in Nova Scotia at the time. Racial inequality in the province, connected to this history of failed promises of land and opportunity, resulted in significant poverty and related conditions and circumstances that led to neglect and family violence. As discussed further later in this chapter,

racism also shaped the norms and standards used to assess and judge families and the care they provided, resulting in the apprehension of children and placement in the care of the state.

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The need for the Home was also generated by the unwillingness of some existing child caring institutions to take Black children. As noted in Chapter 3 and reported by Lafferty,

> According to Sister Ambrosia of the Home of the Guardian Angel, for example, black infants were accepted only in exceptional circumstances, "when they are found to be destitute and without any friends to provide for them." Her counterpart at St. Joseph's Orphanage, Sister de Paul, declared that she "pefer[red] not to take such children into the institution, as we have no means of separating them from the others." In an indication that, in this instance at least, *religion* was a slightly more important factor than race in deciding on a child's placement, Sister de Paul stated that she *would* take Roman Catholic blacks of school age, as required by the province's Compulsory School Act, but that she did "not consider it desirable to have them in the house after they have reached a certain age." No such equivocations were forthcoming from the Protestant Orphans' Home, which declared simply, and somewhat vaguely, that "under present conditions colored children could not be received."[23]

This claim regarding the lack of care for Black children is sometimes overstated given the evidence that some institutions were willing to take Black children (generally when infants and young children). But the fact remains that Nova Scotia was a racialized society, thus, there were fewer options for Black children; and even if they were allowed into an institution, it is unlikely that it would be welcoming or accepting of the child's racial/cultural identity. This reality led to the creation of separate institutions by Black communities in order to ensure safety and to support community members. Societal racism also necessitated institutional care because of the lack of available options beyond institutional care, such as the lack of willing or able foster homes or adoptive placements in community and the unwillingness (early in its history) to place Black children in white institutions or families. In the later years, as the options improved for family care over institutional care, the Home continued to be advocated for because of the discomfort of the African Nova Scotian community with the placement of Black children in white families, both for the sake of the children, but also for the community and the vision and intention of the Home as protecting the values and interest of the community in caring for their own children.

Other evidence of racism cited in relation to the Home is its location. It is often surmised that the Home was located a significant distance (in 1921) from the city in order to place Black children "out of sight." This suspicion was reinforced by the notion that the Home had been established in Halifax in the first instance and was destroyed by the Halifax Explosion, only to be relocated far out of town. This was consistent with the reality of segregation at the time. Our review of the facts and circumstances surrounding the founding of the Home, however, do not accord with this account. The decision to establish the Home in Westphal, outside the city of Halifax, was the result of a number of factors, including that the cottage on the site of the Industrial School that had been rented to serve as an initial site for the Home was always anticipated as a temporary location until the numbers warranted a larger facility. As Blois indicated in his letter seeking to lease the cottage on the Industrial School site in 1917:

> Briefly our idea is this; to place a good, reliable, well trained woman in charge of the house, and have it always available for the reception of small colored children, until such time as they can be otherwise disposed of. There are comparatively few of these cases, but our existing institutions either will not or cannot accommodate cases when they arise, with the result that no provision is made for temporary shelter for the very small colored children. We do not anticipate there would be more than a half a dozen children in the Home at one time, and the idea is to secure a suitable property outside the city should the demand warrant such an undertaking.[24]

The explosion did play a role in the decision to move locations before the Home began operation on the originally selected site in Halifax. However, it was not because the original Home site was destroyed, as is commonly referenced. It is clear, though, on the record, that the cottage sustained damage that would have required repair (it was subsequently repaired and occupied by another child-care initiative). The explosion had an impact because it increased the need for child caring and the public attention and support for such enterprises. As a result of these factors, the NSHCC was in a position much earlier than anticipated to operate a larger institution and to garner public funding and support to acquire land and build a facility.

The rural setting was also viewed as a potential advantage for the Home and the children in its care. The commercial farm was also a significant resource for the Home and provided an opportunity for training for the residents of the Home (particularly the male residents). At the time, this resonated with the original vision of the NSHCC to provide education and training for African Nova Scotian children and youth. The location of the Home in a rural/agricultural setting was also consistent with ideal notions of child rearing at the time. It was thought to be good for children to be raised with access to nature.

The influence of systemic racism was not absent, however, from the decisions regarding the location of the Home. It is clear on the record that there was some consideration given to ensuring the Home would be located near an African Nova Scotian community so that there would be ready access to support for the operation of the Home. It is also clear that the Home was not warmly received by the surrounding white community.

As the review of the history reveals, for most years where comparative data is available, the NSHCC had a higher percentage of its operating funding from Government; in the later years, the Home received a preferential funding rate requiring lower occupancy rates to qualify for full funding.

Throughout the history of the Home, there were concerns about inadequate resources for the care of children in the Home. This is perhaps one of the most pervasive misconceptions offered as proof of the racism underlying the Nova Scotia Home for Colored Children. It is generally believed that the NSHCC received less funding than other similar institutions because it was a home for Black children. Our examination of the records and the history of the institution did not find this to be the case. In fact, the evidence reveals that the Nova Scotia Home for Colored Children generally received more public funding than other similar institutions that predominately served white children.

As the review of the history reveals, for most years where comparative data is available, the NSHCC had a higher percentage of its operating funding from Government; in the later years, the Home received a preferential funding rate requiring lower occupancy rates to qualify for full funding. Even in its founding, the land for the NSHCC was purchased by Government and transferred to the Home. This was not regular practice for other private institutions. If this was the extent of our findings, it might be taken to defeat the claim that the NSHCC is an example of racism in Nova Scotia. But this is not the whole story. Seeing the operation of racism in the financial struggles of the NSHCC requires a more contextual and careful analysis.

It is important to be clear that the fact that the Home received a higher percentage of public funding does not mean that it had sufficient funding. The evidence suggests that the care of children was significantly under resourced, and other orphanages, even the children's aid societies responsible for funding placements in these institutions, struggled financially. As explained in Chapter 3, child welfare was not originally understood as a public responsibility. It was a private matter — the preserve of the family, as we consider later in this chapter in our discussion of the care system and the experience of children. This meant that, for much of the history of the NSHCC, assistance for children was a matter of charity. As a private institution, the NSHCC had to rely on the private resources that could be raised to augment the basic per diem rate cost shared between the Province

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and Municipality. In this respect, the NSHCC was no differently positioned than other similar, private child caring institutions. Indeed, given the evidence, they seem to have fared better, receiving more public monies than others. Except that this picture does not take into account some significant factors related to the underlying economic and social racial inequality in Nova Scotia. These had several serious implications for the financial situation of the NSHCC.

First, the Home did not have the benefit of institutional backing by a well-resourced religious entity, as was the case for the Catholic and Protestant orphanages. While the Home was the product of significant leadership and support from the AUBA, it was a different body than the corporate structures of the Catholic and Protestant churches. The AUBA was an association of individual Black churches that had developed and operated independently. The association was a voluntary organization reflective of the congregationalist nature of the Baptist tradition. While it had considerable capacity to mobilize its membership in support of this cause, it did not have an institutional resource base, nor a corporate structure, to independently support the work of the Home. Many of these other institutions operated with an endowment to provide protection from financial uncertainties and periods of instability. This may explain the need for the Government to step in to provide the land base for the Home.[25]

Second, several times throughout the history of the Home, there were suggestions that the Home should realize resources by selling off portions of its land endowment. On its face, it is challenging to reconcile the pleas of financial hardship at times in the Home's history with the fact that the institution retained this significant asset intact and unrealized for the sake of the care of its charges. It is more comprehensible if one attends to the history of racism in which Nova Scotia failed to make good on the promises of land to African Nova Scotian citizens who settled here. The current project to clarify land titles to make some partial remedy for this injustice provides some context as to why an African Nova Scotian institution that held clear title to land for "the care, education and proper training of members of the Afro-American race"[26] was not predisposed to sell off this collective resource held in trust for the community, and for the future, in order to resolve the financial stresses of the day.

The Home also did not have a core base of support among the African Nova Scotian community that was capable of providing the significant financial resources needed for institutional operating or capital needs. It is a remarkable testament to the commitment and resilience of the African Nova Scotian community through the AUBA (notably the ladies auxiliary/women's institute) and the wider community that the Home received the support it did. A review of fundraising efforts throughout its history, however, reveals the need to garner support from the broader Nova Scotian population to support the Home. This included efforts to frame the work of the Home in ways that would appeal to the majority white population. For example, the charitable appeal for funds to complete work on the Home in 1923 was introduced under the title " 'LOVE' AND 'SYMPATHY' HAVE NO BOUNDARY LINE." The text of the appeal made the case:

> If a child is orphaned, homeless and allowed to grow up neglected, as sure as the sun rises and sets, that child will becomes a weed in the garden of society – and not only a weed, but a noxious and destructive agency. There is a leaven of good in society, but we never think of the **leaven of evil** – the homeless, uncared for children who run wild and necessarily grow according to the way of least resistance, with the evil agencies in the world. It is therefore a sound financial investment as well as a moral obligation to make proper provision for the care and training of Orphan and neglected Colored Children.[27]

Following this appeal, the booklet offered a "list of contributors – the largest and most influential Business Men in Nova Scotia."

The tension between the emancipatory goals of the Home and its reliance on such financial support was evident in the dispute in 1970 that led to the departure of the fundraiser/treasurer from the Board. Dissatisfaction with the appeals to white benefactors was at the core of this dispute.[28] Concerns over funding and the reliance on fundraising efforts were a constant concern of the Board throughout the life of the institution. Concern with crafting and presenting a public image that would garner support occupied and shaped the decision making of the Board in a significant way throughout its history. It was particularly influential in the reaction and management of problems or crisis. Concerns for the public image of the Home occupied a more central place in the governance of the Home than concerns for the well-being and impact of issues on the residents.

The funding issue is reflective of systemic racism in another way as well. It is not the case, as oft claimed, that the Home received a lower amount or level of funding compared with other private institutions. However, the examination of the operations of the Home revealed the available funding was not actually equal to that of other institutions. Public *per diem* funding was provided for "wards," those children apprehended and formally taken into the care of the state. For a significant period of its history (at least up to the early 1970s), the Nova Scotia Home for Colored Children was home to some children who were not formally wards of the state. The circumstances that would cause families to seek assistance from the Home were reflective of the significant inequality faced by African Nova Scotian communities. Communities also struggled to provide resources within themselves to provide help. Indeed, the NSHCC garnered significant support from the African Nova Scotian community and the AUBA because it was viewed as a community commitment to helping families and children. It is not surprising, then, that the community leadership (significantly through the Church) would recommend the Home as a place of support and refuge for struggling families. It is also not surprising that the community would seek to deal with these matters without involving the state authorities. The ideals of self-reliance, resistance, and a lack of trust in the intervention of state authorities that were not representative of the community resulted in direct requests to the Home to provide care for children. These

requests often did not come with resources. Thus, there is evidence that the Home was stretching the funding provided to ensure basic provisions for wards to support a much larger population. There is also evidence that this was known by the state (both in director's reports and in regular correspondence on the issue from the Home and the Department). The fact of this demand might have signalled significant need for children and families in the community, but, instead, was often met with frustration that they were irresponsibly taking additional charges without resources. In the context of an approach that generally saw child welfare as a charitable enterprise, it was even harder to make the case for funding where the state did not apprehend the child. The failure to appreciate how the NSHCC was differently situated in terms of meeting the needs of children in the African Nova Scotian community, and the nature of these needs in the context of racial inequality, is evidence of systemic racism and its impact on the NSHCC. It is not a simple story of racism, but it is, nonetheless, a story of structural and systemic racism.

The ideals of self-reliance, resistance, and a lack of trust in the intervention of state authorities that were not representative of the community resulted in direct requests to the Home to provide care for children.

Funding was also challenging for the institution because it was the only one serving Black children and youth in the entire province. As a result, it was not the responsibility of a single community or children's aid society. While this was an advantage in terms of drawing support from across the province, it was a significant challenge in terms of the demands on the institution and the administrative challenges of getting paid by multiple agencies for placements. The scale of the enterprise as the only home for African Nova Scotian children made this more difficult but was necessitated because of the racialized structure of society and care. It also made it more difficult for families to visit and access their children because distance and financial resources made regular contact challenging at best.

Funding was also challenging for the institution because it was the only one serving Black children and youth in the entire province. As a result, it was not the responsibility of a single community or children's aid society.

The NSHCC was staffed, for most of its history, by members from the African Nova Scotian community. The abuse suffered by former residents came at the hands of some of these staff members. This was true when the Home was governed, and staff overseen, by a Board with a majority of white members, and remained true after 1971 when the Board had a majority of African Nova Scotian members. This fact has caused some to express doubt or confusion that the abuse was grounded in racism. As discussed above, it is clear that the Home operated within significant structural and systemic racism. This was true when the Home was governed, and staff

overseen, by a Board with a majority of white members, and remained so following the shift in 1971 when the Board had a majority of African Nova Scotian members. This racism also impacted staff and contributed directly to the conditions and circumstances in which abuse and neglect took place. The accounts of neglect and abuse extended across the generations of former residents at the Home and came at the hands of both female and male staff at the Home. Many of the former residents were clear that, while they experienced significant harm from their treatment by staff, they also credit some staff members with providing the kindness and care that enabled them to survive, and some to report thriving, because of the Home. While former residents do not seek to excuse these individuals from their responsibility for the neglect and abuse they experienced, many also spoke to the systemic factors that contributed to the conditions and circumstances of their experience. These factors are clear from our examination of the history of the NSHCC as well. They included:

- The vulnerability of staff, particularly women, who worked at the old Home given the significant economic inequality and the lack of available employment for African Nova Scotian women. The risk of losing employment was a significant factor in the silence and helplessness surrounding the neglect and abuse occurring at the Home. The former residents' experiences are rife with small acts of subversion aimed at mitigating the harm and protecting children from neglect and abuse in the Home. Such acts were often covert and within the bounds of their power within the institution and society.

- The lack of training and capacity for staff to fulfill their roles. Throughout the history of the Home, lack of knowledgeable and skilled staff is identified as an issue. Even taking into account the changing norms and standards for child care — from the days when the role was thought to require only some experience or knowledge of children, rendering motherhood as the standard qualification, to the professionalization of child care, particularly in the contexts dealing with significant childhood trauma — the NSHCC was consistently below these prevailing expectations for the field. Placed in the context of the other commitment to community and culturally connected care for African Nova Scotia children, though, the issue is less straightforward. Racism significantly impacted access to education and training for African Nova Scotians and, even more so, women who contended with higher levels of poverty and the burden of family responsibilities. The consistent criticism of the quality of NSHCC staff presumed an available pool of employees that does not seem to correspond to the reality for many in the African Nova Scotian community during these periods. It also presumes the capacity of the institution to remedy this situation with the provision of training to overcome this deficit.

- The Home was disadvantaged, in this regard, over other child caring institutions, most notably the Catholic orphanage who drew staff from religious orders and who

had capacity and resources to provide education and training. In the early years, the Home did seek out a trained matron, and, ultimately, found one from the United States, but this was not sustainable. The Home was not in a position to remedy the lack of experience and knowledge of staff on an ongoing basis. Professional social workers and child-care workers were not generally common in the province until the mid 1900s after the establishment of child-care worker programs and the Maritime School of Social Work.[29] African Nova Scotian professionals were even less common given the lack of access to education for African Nova Scotians. Indeed, even the Government struggled to ensure adequate knowledge and expertise for leaders in social services. For example, Fred MacKinnon, who presided over the Department and played a significant role in the Government's relationship with the Home from 1947 until 1980, lacked the experience and knowledge required when he was recruited into the Department in 1939 after only a short experience as agent for one of the children's aid societies. To remedy this, Deputy Minister Blois arranged and funded MacKinnon to undertake a fellowship in the United States. Similar access to training and knowledge was not within the grasp of the Home.

The Home, then, drew its staff largely from the African Nova Scotian communities in the vicinity of the Home. The connection with community was viewed as important to the vision of the Home as a community-based institution for the care of African Nova Scotian children.

- The Home was also seen, though, as an important community enterprise in terms of providing employment opportunity for members of the African Nova Scotian community. The numerous reports throughout the years noting the contrast between the quality of lodging and food for the staff and residents reveal that the Home was functioning as a resource for these African Nova Scotian employees. While there is no excuse for the neglect and failure to meet the needs of residents, it is important to recognize the reality of need and poverty for many of the staff. Thus, the Home served as an economic resource for community in the context of significant racial inequality.

Racism also played a significant role in the nature and response to abuse at the Home. It informed the nature of abuse as described by former residents who were judged or ridiculed according to their skin colour or perceived racial identity. Racial inequality also led to silencing of problems and allegations in the African Nova Scotian community. It was not acceptable to talk about violence or abuse in the community, and it was particularly unsafe to reveal failings of the community to the wider majority community. The AUBA Women's Institute of Nova Scotia recognized that the issues of violence against women and family violence were

rarely talked about in the Black community. In 1999, they undertook a project called "No More Secrets" that included a film and a workshop guide to support public education and to raise awareness about violence against women in the Black community. The workshop guide written by Sylvia Hamilton reflects the reasons for silence about the issue in the African Nova Scotian community that were shared by women within the community during the talking circle that appears in the film.

> If abuse has been present within the community for a long time, why does such silence surround it?
>
> - Speaking out may mean women are singled out and condemned.
> - Community "norms": don't take "our business" outside.
> - Additional layer of racism – don't draw more attention to our community because the wider community will think ill of us.
> - Men in the Black community may not recognize abuse, or that they may be abusers, until their daughters are abused.
> - Many people are related to each other in small communities; who can a woman turn to without fear, shame and condemnation?[30]

The reasons identified by the women participants for silence regarding violence and abuse within the African Nova Scotian community echo the experience of former residents in coming forward. They resonate with concerns expressed by some within the community about the revelations of abuse at the Home and this public Inquiry. They also resonate with what participants from the AUBA and the African Nova Scotian community identified within the Inquiry process as contributing to the history and experience of the Home, and what continues to require attention.

As discussed above, staff were also placed in difficult positions with respect to reporting abuse because of the underemployment and economic need — particularly for women working to support families. As we discuss further later in this chapter, responding to abuse was also made more difficult because the African Nova Scotian community is close knit, and many community members were involved with the Home as leaders or staff, or by sending children into care at the Home.

C. Addressing Systemic Racism

Kwame McKenzie's account of the experience of the United Kingdom post the Stephen Lawrence Inquiry is instructive about one of the significant challenges of addressing systemic, institutional, and structural racism. The passage of the UK Government's *Race Relations Amendment Act* 2000, Race Equality Impact Assessment Strategy,[31] and other initiatives established to decrease disparities and improve services for Black and other minority ethnic groups faced significant

push back. Despite the clear acknowledgement that institutional racism was a collective problem, individuals within the various departments and services felt they were being accused of being racists. As McKenzie reports, "[t]hey were offended and said that their professionalism was being called into question. When coupled with the fact that those who run the NHS [National Health Service] and police were suggesting that training was one solution to the problem of differences in treatment between groups, it is not surprising that those on the front line believed they were scapegoats for a complex issue. The definition expressly stated that institutional racism was not because of individual racism, but that is not how it landed."

The Senate of Canada's Standing Committee on Canadian Heritage similarly noted in its recent report "Taking Action Against Systemic Racism and Religious Discrimination Including Islamophobia" that "[r]acial discrimination is often understood as an individual act of discrimination, such as a refusal to provide a service, rent an apartment or offer a job to someone because of stereotypes based on ethnicity or race." They are clear, though, that racism must also be understood as systemic and institutional. Such racism, they explain, is sometimes overt and intentional, as in the residential school system, but, they continue: "As society has evolved and with the advent of human rights legislation and the *Canadian Charter of Rights and Freedoms*, these overt forms of systemic discrimination have become rarer. However, more subtle, often unintentional forms of systemic or institutional racism and discrimination continue to exist."

It is clear that systemic and institutional racism continues to exist despite significant reforms to systems over time, but because it is not revealed, nor the subject of the intentional effort required to systematically undo it, it is replicated over generations.

The history of the NSHCC reveals both intentional and more complex, subtle systemic and institutional racism. Clearly, the institution emerged in the context of a racialized and racist society that created the conditions of inequality and lack of support for children and their caregivers. It generated the need for the institution. It also created the circumstances of segregation that required a separate institution to adequately respond to this need. But for the most part, what makes the example of the Home both difficult and instructive as an example of systemic and institutional racism is the subtleties and complexities with which racism is operative in the Home's story.

This is instructive because it speaks to the importance of investing in processes by which individuals can understand institutional and systemic racism. It is not realistic or helpful to say that it is not about individuals within systems and institutions. It is clear that systemic and institutional racism continues to exist despite significant reforms to systems over time, but because it is not revealed, nor the subject of the intentional effort required to systematically undo it, it is replicated over generations. It is true that systemic/institutional racism cannot be explained or addressed by the ascription of individual blame, as is so often the focus of our efforts to identify and address

problems. It is not true, though, that individual's bear no responsibility to dismantle and transform systems to address systemic racial inequality in its assumptions, operation, and impacts.

In support of efforts to address such racism, the Wellesley Institute identified the need to rethink the definition of institutional racism. In part, the issue is not a failure to appreciate the substance and nature of racism beyond individual actions. The concern is how to ensure the definition establishes a workable concept to drive action. To this end, they developed a simple definition focused on positive action:

- Institutional racism is an ecological form of discrimination.
- It refers to inequitable outcomes for different racialized groups.
- There is a lack of effective action by an organization or organizations to eradicate the inequitable outcomes.

They explain:

> This definition aims to move away from the paralysis caused by identifying the causes of racism. It moves away from questions about whether there was intent to discriminate. And it focuses on action to decrease racism in the here and now. Further, it argues that racism in the public services is not about how things were done in the past, it is about what an organization does in the present to deal with racial disparities. It makes it simple; if you see disparities linked to race and you have no effective plan to decrease them then you have to take responsibility for your inaction. Institutional racism is seeing racial disparities and doing nothing effective about them.

Thus, the aim is to define in order to provide it the understanding that is necessary and supportive of action. This action-orientation has been the driving force of the Restorative Inquiry. The process was envisioned and implemented as a mechanism through which understanding aimed at action could be established between and among those with responsibilities to make a difference. This is work that requires us to let go of the simple stories and solutions for racism — systemic racism and its impacts cannot be understood or addressed by strategies that seek to name, blame, and shame individuals within those systems.

This is work that requires us to let go of the simple stories and solutions for racism — systemic racism and its impacts cannot be understood or addressed by strategies that seek to name, blame, and shame individuals within those systems.

One of the motivating factors to take a restorative approach to this Inquiry was a recognition that we lack alternative processes to support the individual and collective responsibility needed

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to change institutions and systems outside of the framework of adversarial, blame-focused processes. The restorative approach of this Inquiry was designed to establish the conditions in which individuals could come to examine and understand the complexity of systemic and institutional racism, as it presents through the story and experience of the Nova Scotia Home for Colored Children, and to recognize individual and collective responsibility for systemic and institutional change.

Systemic racism then provides a very important lens through which to understand the history, experience, and impact of the NSHCC. Likewise, the Home offers a powerful example of systemic racism — how it operates and its impact. As we consider in the Chapter 6, an examination of the Home has contributed to a greater and more nuanced understanding of racism and how it operates at institutional, systemic, and structural levels. It has offered lessons and insights that are significant for the way forward in terms of the experience of children and young people with the care system, and responses to institutional abuse and failures more generally. The understanding of racism illustrated by the history and experience of the NSHCC also has implications for recognizing and addressing racism as it operates in other institutions, systems, and social structures in Nova Scotia.

The story of the Home is a story of systemic racism in the context of the child welfare system and other systems responsible for the care of children, young people, and their families, as well as the responses to the abuse and harm experienced within the institution. It is not, though, entirely or uniquely a story of systemic racism. Although the story of the Home cannot and should not be understood apart from the reality of systemic racism, it must also be examined through the lens of the care system for children and as an example of institutional abuse and responses to it. These other factors shaped the nature and experience of care in the NSHCC. The experience of former residents of the Home is also reflective of the experience of children with the care system more broadly, and of the experience of institutional abuse and system failures in particular. As we consider the story of the Home in the context of the child welfare and care systems of which it was a part, and as an example of institutional abuse/failures and the responses to it, we are attentive to the fact (as revealed in the discussion above) that these issues and their impact were often amplified or exacerbated for those marginalized by virtue of race and those dealing with the impact of racism at the same time.

Part 2: Experience of Children and Youth with the Care System

A. Introduction

While the history and context of systemic racism in Nova Scotia is fundamental to the story of the Home, it also reflects the attitudes, approach, assumptions, and developments in child caring and the child welfare system in Nova Scotia. The system of care at the time the Home was founded, and throughout its operations, had a profound effect on the operations of the Home and the experiences of the children and youth who lived there.

Veronica Strong-Boag, one of the leading experts on childhood, fostering, and adoption, commented:

> To paraphrase Jane Austen, "it is a truth rarely acknowledged, that children regularly overwhelm families." The history of the Nova Scotia Home for Colored Children (NSHCC) reflects that universal human experience. Even as its story is in some ways distinctive, it embodied a ubiquitous human struggle to find satisfactory responses to families' recurring need for assistance in childcare.[32]

In the face of the challenge of raising children, families have a long history of seeking assistance. Institutions, like fostering and adoption, and, indeed, public schooling and day nurseries, have developed in recognition and response to this need. No solution to families' need for assistance has ever been perfect. No setting escaped abuse, and some became notorious sites of harm and abuse. Some girls and boys, notably those in disadvantaged or marginalized communities, have always been especially vulnerable to mistreatment. Even solutions imagined and designed by (or in collaboration with) disadvantaged communities, as with the NSHCC, did not escape the tragedy that dogged relations between children and adults in many settings.

The development of child caring institutions, including the NSHCC, reflected this fundamental historical reality: families sometimes need assistance in, and respite from, child rearing. While regularly presented as the "modern" solution to child welfare issues, fostering or adoption was not always the best answer. Those solutions have often been designed to break the family and extended ties with kin that help children, and the adults they become, make sense of their lives. At their best, institutions have offered security and opportunity, maintained ties with family, and offered hopes for reunion. As Renée Lafferty's study of institutional care for the poor in Halifax concluded, "their wholesale elimination created new problems and left fewer options for families and children in need."[33]

Early in the mandate, the Restorative Inquiry requested Dr. Strong-Boag prepare a submission based on her extensive research and expertise in the area of child caring and child welfare in Canada.[34] Her submission made an essential contribution to the Inquiry's examination of the history and experience of the Home. It helped to ground the work in an understanding of the larger culture and developments in child caring and child welfare. Her work shed light on how the broader ideas and approach to child welfare influenced and shaped the founding, operations,

and experiences of the Home. She highlighted key issues that illuminate the history of the NSHCC and how it reflected much of what was happening in child welfare in Canada. We have integrated her insights and relied on her submission, scholarship, and research throughout this section of the chapter. We are deeply appreciative of her generous support of the work of the Restorative Inquiry and the significance of her research and work.

Veronica Strong-Boag's work identified six key issues that help us understand the origin, developments, and operation of the Nova Scotia Home for Colored Children in the context of the emergence of Canadian child welfare strategies since the 19th century. These key issues are:

1) Influential ideas about women, men, children, and families: In particular, four pervasive ideologies that shaped child caring and child welfare and became increasingly influential in considering the production of suitable citizens:
   - The Cult of True Womanhood: the all-nurturing mother-wife,
   - The Male breadwinner: husband-father,
   - The Priceless Child: precious and innocent,
   - Governments' Role in Child Rescue: the right of authorities (the State) to regulate families.
2) Racism and humanitarianism and the goal of "child rescue" or "child saving": Racism, alongside and often combined with classism and ableism, ensured unequal access to resources for successful child rearing and encouraged mainstream authorities to scrutinize and view disadvantaged communities unsympathetically and often treat them unfairly with respect to child welfare. Such prejudice was sometimes justified or masked by humanitarian and charitable (often Christian in character) intentions that stressed common humanity and social justice. These intentions often drove a commitment to the idea and importance of "child rescue" or "child saving" that fed the notion that children needed protection, often from their families and communities.
3) Child rearing as hard and unpredictable labour: Raising children is labour-intensive and unpredictable in its demands. Many families in all communities could not, by themselves, readily mobilize sufficient resources to match preferred standards of child caring and duty to meet children's the needs.
4) Families' search for help and additional resources: Parents of every circumstance have historically sought additional resources from family and extended kin and community to raise children, but the ideal of the autonomous and independent modern nuclear family obscured that long-standing and persisting dependence and discredited and defamed different forms of family and child care.

5) Resistance: Children, families, and communities, whom mainstream authorities deemed deficient in child rearing, challenged and resisted this view by creating alternative narratives and supports. In the 19th century and beyond, that response both drew upon and sometimes countered dominant ideologies that favoured one family form, namely the independent, highly gendered, nuclear family aligned with Western-European norms.

6) Silencing of survivors' voices: Children who became objects of child-rescue/child-saving initiatives rarely got to tell their story. Only in the course of multiple child abuse scandals in the late 20th and early 21st centuries did survivors get extended public attention. They did not, however, have a simple story to tell since mistreatment often occurred alongside opportunity.

B. Influential Ideologies

Recurring assumptions about what is natural and about independence (including assumptions about free choice and responsibility) have significantly limited the understanding of parenting and affected the development of child welfare. As Canada established the foundations of the welfare state, beginning in the 19th century, families producing results deemed unacceptable by authorities were likely to be treated as somehow contradicting nature and more deserving of judgment and censure than understanding and support. After Confederation, four ideologies were increasingly influential in shaping assumptions about what counted as proper (and natural/normal) behaviour and care. These ideas informed both private and public experiments in child welfare.

I. The Cult of True Womanhood: the all-nurturing mother-wife.

The emergence of what has been called "a cult of true womanhood"[35] was based on the image of the perfect middle-class life but was not reflective of the reality of most women's lives. As a result of the influence of this idea, women were increasingly held particularly responsible for the well-being of children and, ultimately, through this next generation, for the destiny of the nation itself. While women might enter the waged labour force (and increasingly did), they were always held primarily responsible for domestic life and the care of children. Canada's constraints on access to birth control, which was declared "obscene" and criminalized in 1892, significantly impacted women. It sent the message and ensured that women's true purpose was motherhood.

While maternal dedication was assumed to be natural in normal women, advocates of child rescue increasingly accepted the need for additional social supports. This was evident in the advocacy for home economics classes in public schools, instruction in parenting, mothers' legal right to child custody, and Government pensions or allowances when husbands and fathers failed. For example, legislation providing for Mother's Allowance was introduced in many

Canadian provinces. It is notable that Nova Scotia's first legislation of this kind was in 1930, almost a decade after similar legislation appeared in several other Canadian provinces.[36] Nova Scotia's legislation followed a Provincial Royal Commission on the subject that recommended allowances only be paid to widows with children. By the end of 1939 there were 1,291 mothers receiving the allowance.[37] Family Allowance would not be introduced federally until 1945. At the same time, advocates of the cult of true womanhood readily condemned women they judged maternally inadequate as failing a key test of modern citizenship. Fred MacKinnon who was involved and eventually responsible for Mothers' Allowance in Nova Scotia reflected:

> Looking back at the administration of Mothers' Allowance in these early years, I am struck by the inordinate emphasis placed on the morality of the mothers. When a mother was widowed and became eligible for the allowance, the Mothers' Allowance staff closely monitored her behaviour. If, per chance, she was found to harbour male borders, a red light of concern was flashed immediately from the community where she lived, and the odds were great that the allowance would be cancelled. There were no appeal provisions in the legislation, and one is left with the impression that to be in receipt of a government pension or allowance required strict sexual discipline and a high moral standard.[38]

Only too often, mothers who proved unable to parent according to the prescribed model became "scapegoats," a ready explanation for why "society is not working well."[39] It was also clear that a mother's worthiness of support was dependent upon there having been a husband involved at some point. Those who were always single mothers (not by virtue of being widowed) were not eligible for support.

This idea and expectation of women is evident in the history and experience of the NSHCC in several ways. It shaped assumptions and standards for good mothering that made it difficult for women to measure up and made them vulnerable to being judged inadequate. Such sentiments were clearly expressed, for example, at a conference on child welfare in Halifax, as reported in the newspaper at the time:

> The conference opened at three with remarks on Growth and Development of Children's Aid Societies since their formation about fifteen years ago. Contributory causes of some phases of Child Welfare problems were discussed particularly that of modernism in womankind, which had tendency to destroy the courtesy and reverence for the weaker sex that man has always had, as well as the ultra-modern styles of attire affected by women which inspired the primitive passions in man that education and culture had not been able to entirely eradicate.[40]

Such notions contributed significantly to the shame and silence that surrounded the Home for parents and the African Nova Scotian community because of the sense that bad mothers may be to blame for why many children were in the Home. This concern was amplified for the community because it fed into existing prejudices born of the racism in Nova Scotia.

The influence of this idea about the nature, roles, and responsibilities of women can also be seen in how the Home was staffed. Until the opening of the new Home, in 1978, child caring at the Home was primarily the preserve of women, while the oversight and governance of the Home was largely left to men (particularly in the first half of the 19th century). Gender roles were clearly defined at the Home as men tended the building and land, women were charged with the welfare of the children. The idea that this work was natural for women was reflected in the fact that, for a significant part of the Home's history, experience with children — notably as a mother — was viewed as a qualification for employment.

The Home was not unique in the gendered nature of child caring, nor in that fact that such work was not seen as requiring professional training or skill. This was in contrast to the idea of teaching as a vocation or profession, although, even for teaching, the standards and available training varied significantly, particularly for service to marginalized populations.

Throughout the history of the Home, there was a significant growth in professionalization in the human services field. Of particular note is the rise of professional social workers. Rooke and Schnell describe the push from volunteerism to professionalism and say nowhere was it clearer than in the child rescue sphere in English Canada.[41] Chapter 3 recounts similar calls for increased skill and professional expertise at the Home eventually resulting in hiring a professional social worker as executive director in the 1970s.

The idea of the Home as a community solution to the need for support and care meant that many women who worked there were drawn from the local African Nova Scotian communities. Until the later years of the Home's operations, many women staff members would also have carried the burden of working while remaining responsible for their own children. Indeed, the idea that women were to be in the home as full-time mothers meant that there were limited options in the labour market for women to support their children. This was even more true for racialized and other marginalized women. This vulnerability created a significant risk for women if they lost their employment at the Home, resulting in a determination to make things work or an unwillingness to raise questions or objections if things were not working

Cooking class (NSHCC brochure)

well. The idea of child care as women's work was also evident in the role of the Ladies Auxiliary of the AUBA in the founding and support for the Home. Their commitment clearly reflected the idea that child caring was the domain and responsibility of women.

The treatment and training of female residents of the Home was also shaped by this ideal of womanhood. Girls were taught to sew and clean and sometimes helped in the kitchen. As reported in the Home's annual report of 1931 (on the Home's ten-year anniversary):

Cooking, Sewing and Housekeeping classes meet the practical side of our training for the girls. The Domestic Science course includes a working knowledge of food materials in simple combinations; the use and care of utensils; neatness and cleanliness in work and personal appearance; accuracy in measuring materials; rules for dishwashing and cleaning agents; the stove, its parts, arrangement and regulation of draft, etc., etc.

Sewing class (NSHCC brochure)

The art of good housekeeping is carefully taught; every child from eight years of age has a responsibility; if only the dusting of a chair. Washing, scrubbing, ironing, sweeping, dusting, cleaning, making fires, polishing stoves, dishwashing, laundering of towels and cloths, etc., are important parts of the Girls' training.

As every girl should know how to use the needle special instruction is given in mending, patching, footing stockings, hemstitching, the making of bloomers, pants, coats, pajama suits, nightgowns, dresses, remodelling of hats, bed linen, table linen, curtains and drapes, as well as fine needlework, etc., etc.[42]

Some former residents report being sent out in the community as domestics, reflective of the aim to prepare them to be productive citizens in future.

II. The Male Breadwinner: husband-father

The counterpart to the cult of true womanhood was the ideal of the male breadwinner. Men's contribution to the support of the family was to be demonstrated in the marketplace. Their wage-earning was to enable women's focus and dedication to being wife and mother. Husbands-fathers who could not guarantee sufficient income to keep wives and mothers at home were increasingly disparaged as inferior and unmanly. Like mothers-wives, they too became scapegoats for society's tragedies. Men in racialized minorities received especially

harsh assessment in this respect. Racial inequality in Nova Scotia contributed significantly to the inability of men to fulfil this expected role of husbands and fathers and ultimately contributed to the inability to provide for children and to family breakdown. It is notable, as described in Chapter 3, that neglect gets added alongside abuse to the spectre of child protection legislation.[43] This change coincided with the move to bar children from poor houses to protect them from exposure to unsuitable settings and the range of adults residing there. As Rooke and Schnell describe, "while it had become first fashionable to house orphans and half orphans in appropriate institutions and then more fashionable to place them out, some poor asylums still retained children before 1920. For example, the 1913–14 Report of the Inspector of Humane Institutions, Nova Scotia, spoke of children living 'day and night in the company of irritable and complaining old people, of mischievous, and profane lunatics, and of drivelling and unclean imbeciles.' "[44]

The consequence, however, of this move to bring neglect under child protection was to conflate poor parents with poor parenting. The influence of the "ideal man" providing for his family can be seen in this response. It shaped perceptions of neglect and the appropriate response of removal rather than support.

This ideal of masculinity tied to productive labour is reflected in the vision and operations of the Home. The original vision of James R. Johnston was for a training institute to prepare African Nova Scotian men to take up places in the labour market. This was positioned as essential to the larger project of racial uplift drawing a clear connection between men's success in achieving this male standard with the success of the community. As the original vision shifted to care for children and young people, the core recognition of the importance of training for the labour market was not lost. Indeed, the Home maintained its goal of offering a training program for male residents throughout much of its history. Many of its public appeals for funding and reports to the Government and the AUBA lifted up its offerings and expressed regret that formal training was not yet available. For example, the annual report from 1931 indicated, "[s]o far our funds have not permitted us to provide a Manual Training Instructor for the boys; however, they receive practical training along all lines of farming endeavors – chores, such as wood cutting and sawing, care of cattle, horses, chickens, weeding, and attention to shrubs and small fruits; and they assist in the small details of unskilled labour and ordinary construction work, which all tends to train and broaden the mind for future usefulness." From this perspective, the physical labour (tending the land first, the farm, and, later, gardens, or doing small maintenance and repair jobs) were to be celebrated as preparing boys to be good citizens as productive men. It was clear that this training was oriented to the place they would be expected to occupy in the labour market as significantly more emphasis was placed on these activities then on academic pursuit.

It is also important to recognize that such labour was not simply a matter of training and development of the children. For much of its history, the Home, like other institutions and many birth families, relied on children's labour. Their work, whether inside as domestics (mostly girls)

or outside as agricultural labourers (mostly boys), was crucial to keeping costs low and ensuring survival. Even as they often entailed sacrifice of educational opportunity, duties of labour were frequently justified as instilling proper habits and preparing youngsters for occupations that were deemed suitable for them because of their race, class, and gender.

The role and responsibilities of men were modelled for male residents by staff at the Home. Until the hiring of the first male care giving staff in the 1970s, male staff were either in charge of operations, and, in that role, sometimes cast as patriarch (as was the case for the long-standing influences of Messrs. Kinney Sr. and Jr. who positioned themselves as father figures at the Home),[45] or farm hands, groundkeepers, and custodial staff, at times far outnumbering the female staff caring for children.

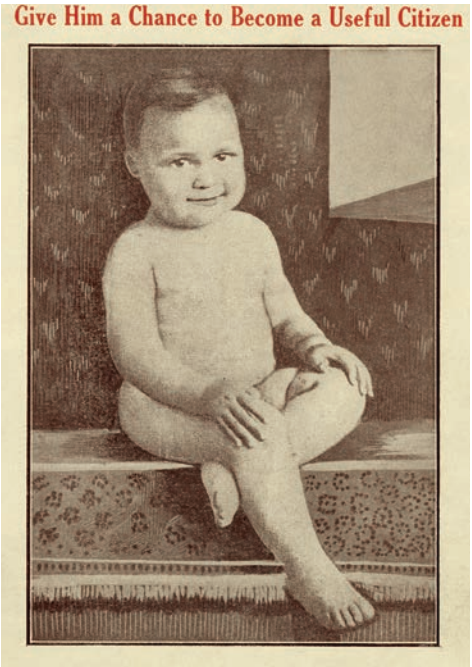
III. The Priceless Child: precious and innocent

In Canada's first century (1867–1967), narrowed and heightened expectations about what was "normal" for children further shaped experiments in child welfare. A professional and popular consensus slowly emerged that celebrated the so-called "priceless child" of the modern age who required "protection, separation and dependence."[46] Children, like their mothers, were thought to belong in the private sphere away from the marketplace. The idealized image of modern youngsters was as consumers rather than producers of domestic resources, including labour. They were to be emotionally dependent on mothers and economically dependent on fathers.

Like the cults of true womanhood and male breadwinning, the idea of the priceless child was rooted in relations of gender, class, and race that assumed the inferiority of many forms of child rearing. In 19th and 20th century Canada, a middle class of European origin was widely accepted as best equipped to produce offspring who guaranteed the future of the nation. Everyone was judged by that ideal.

This ideal of family form and life significantly influenced the Home in terms of why and how it operated. The ideal informed the notion and assessment of neglect, which led to the apprehension of African Nova Scotian children and their placement in the Home. It also shaped expectations and ideals for children in communities (notably through churches) as they sought to measure up to the standards of the wider society lest they be judged by them. Part of the idea of the Home was to be able to provide a level of care and training that would advance children and, in the long run, the community. This had an influence on the willingness of families and community to send children to the Home as a resource to secure a better standard of care for children.

The idea of the priceless children underpinned the fundamental goals of child welfare, as Lafferty describes: "to protect dependent children, orphaned, and neglected children from physical and moral harm; to give them the opportunity to experience childhood through play and through ignorance of strife and responsibility."[47] The Home stated the importance of this idea in its seventh annual report:



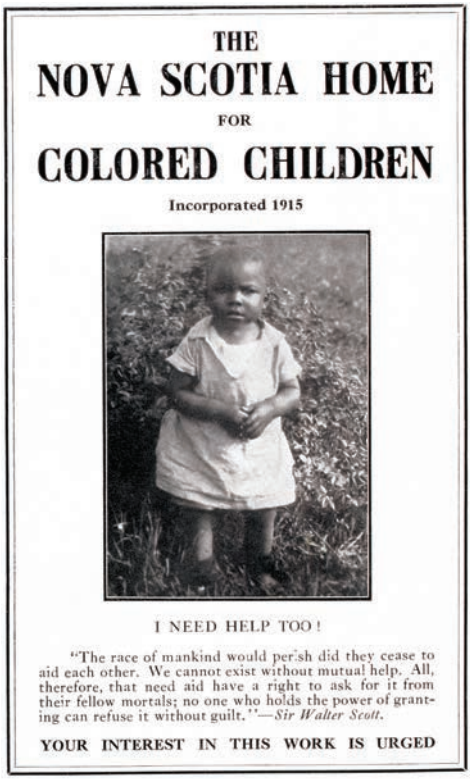
NSHCC Pamphlet, NSA, VF 398-7

> ...there is no more appealing subject touching our humanitarian impulses and sympathies than the child. His very youthful helplessness calls to challenge his rights and our very best efforts for him. The child is always near the heart of humanity. No No [sic] better investment is ever made by any community or Government than that devoted to the welfare and betterment of its children.[48]

These goals aligned with the Christian commitment to the care and nurture of children as evident in the central supporting role the AUBA Ladies Auxiliary played with the Home. The same report reminds of Jesus' declaration: "Suffer little children to come unto me" and "it is not the will of my Father that one of these little ones should perish." It concludes: "We ask your support of these Colored Orphans and Neglected Children not as a matter of sentiment, but of humane obligation – it is part of the moral content of Christianity."[49]

The universal appeal of this idea of the priceless child was also evident in the ways in which the Home sought support for its mission across racial lines. The early efforts appealing for funds for the Home were full of images portraying the innocent and priceless child compelling care and protection. The same image was presented at the annual telethons that began in 1931. Children were presented in their best dress and singing joyful songs to touch the heartstrings (and release the purse strings) of Nova Scotians.

The image of the priceless child was used to build commitment to a common cause with leaders of the white establishment and the broader community. The connection of the natural beauty and innocence of children also played into the idea that the location of the Home in a rural area with access to nature was an ideal setting for children.



NSHCC Pamphlet, VF, 159-26

This ideal of the priceless child also set expectations for children's behaviour and coloured the response when children did not conform. For example, the priceless child should be grateful for rescue and the investment in their betterment. Those that resisted by breaking rules, failing to behave appropriately (particularly in public settings), wetting the bed, seeking comfort of siblings, or running away were often subject to punitive responses. The records of the Home show little concern or attention to the adaption or adjustment of children upon arrival to the Home and their new living environment. The Dwyer Report in 1973 similarly noted: "With regard to programs for child placement, orientation and parental visitation, little is planned or prepared. Usually, each child placed is expected to adapt quickly with little emphasis being placed on adjustment and problems which may be related to the residential environment of the Home."[50] The idea of the priceless child seemed to shape the expectation that children should present as the priceless child imagined in the funding appeals. As a result, Home staff remained ill prepared and untrained to understand or respond to the real experiences and needs of children in their care. When children did not live up to the ideal, it was viewed as their moral failure, not a failure of the environment or care of the Home. This view was reflected in staff expectations and assessment of children's behaviour. Lillian Romkey noted, for example, in her 1948 inspection report that the matron spoke disparagingly of the children in a way that reflected her assessment that their behaviour was rooted in moral failings.[51]

This idea of the priceless child also rendered the child an object to be valued, protected/rescued and saved, but not a subject with agency. The capacity for resilience and value in the empowerment of children to make choices was not part of this ideal. As a result, the idea of the priceless child did not direct attention to what children themselves thought or said they needed in terms of care to survive and be well. It is notable, for example, that the voices of children are generally missing from the appeals for funding or reports of the Home. Their images and singing serve as backdrops for institutional messaging. Former residents speak of the impact of upholding this image for the community or public and the consequences of acting out in such circumstances. They reflect on the lack of choice or control over their lives that contributed to their vulnerability and experiences of abuse.

IV. Governments' Role in Child Rescue: right of authorities (the State) to regulate families

These three ideologies of idealized women, men, and children, in turn, informed the fourth that emerged as a central foundation for the future welfare state: namely Governments' right, indeed duty, to engage in so-called "child saving" and, in so doing, to regulate and uplift supposedly delinquent families. Those who matched the ideals of gendered adulthood and childhood were celebrated, but those who did not were readily judged as inferior, uncivilized, and in need of, at best, pity and, at worst, chastisement and correction. Their supposed disorganization and lack of discipline had to be addressed to make sure that it did not threaten "social order, citizenship and economic prosperity."[52]

The development of child welfare, with its roots in the prevention of cruelty to animals and the extension of this concern for humane treatment to dependent children, reflects this notion of child rescue or saving. The initial focus on cruelty and abuse broadened as the state began to view neglect through the lens of the failure to meet the norms of families set against the assumption of middle-class life, of white culture, and of the norms about men, women, and children. The failure of care in these respects represented a potential threat to social order, and, ultimately, to the future of the nation. Over time, as reflected in the changing relationship of the Government to the Home (and other child caring institutions), recognition of the public stake in this cause translated into greater public responsibility for child protection and rescue.

Ultimately, all four ideologies normalized (and romanticized) a single picture of family life. Well into the 20th and 21st centuries, all Canadian households were likely to be measured against idealized independent middle-class white families of women who focused on being mothers and wives and breadwinning husbands raising youngsters who required near full-time care in their own homes. Systemic and structural disadvantage and alternate cultural forms of ensuring families' well-being and successful childhoods were likely to be unnoticed and stigmatized.

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Families of African and Indigenous descent, but also the working class in general, were especially likely to be found lacking in terms of the care they provided. They were often deemed unimprovable, undeserving, and dangerous. Their apparent parenting failures demanded enhanced surveillance, limited assistance, and, eventually, private and public agencies' apprehension of their children. Few mainstream authorities paid attention to the social and economic vulnerability and oppression of disadvantaged groups as explanations for issues of neglect or abuse. Failures were most frequently ascribed to individual inadequacy or failings. This view contributed significantly to the experience of shame that residents of the Home for Colored Children experienced.

C. Racism and Humanitarianism in Child Rescue

Relations of power (adults over children, men over women, the wealthy over the poor, the abled over the disabled, and the positively racialized over the negatively) always shaped Canadians' treatment and options. Racism was not new, but the 19th century further legitimized it as so-called scientific truth. Middle-class Anglo-Celts emerged at the top of a racial hierarchy with others below. Those on the bottom rungs — commonly Indigenous, African, and Asian-Canadians, but also sometimes those of Irish and Southern and Eastern European origin

— were sometimes overlooked and shunted aside as incorrigible inferiors unworthy of any attention whatsoever. After Confederation, they also readily became targets for correction, with the aim of remaking them in the image of their supposed superiors. Once found wanting, negatively racialized parents and children were ideally to become industrious and well-behaved citizens who accepted their place, for the most part, at the bottom of Canada's imperial racial and class hierarchy. As discussed in the first part of this chapter, the Nova Scotia Home for Colored Children was a product of and a reflection of the racism that has been foundational to the province and continues to shape Nova Scotia.

Racism was not, however, the full story of the Home as part of child welfare in Nova Scotia. Informing many efforts at child rescue in the 19th century and beyond was a long-standing humanitarian impulse, often linked to religious faith and Enlightenment thought. While never escaping racism, and structured by a racialized society, it emphasized common humanity and social justice in ways that sometimes challenged racial hierarchies. Such principles could foster an optimistic tone in child rescue efforts in the recognition of the potential of racially disadvantaged populations. That spirit contributed to the alliance of white and Black private and public sector leaders that spearheaded the vision and establishment of the Home just as it united white and Black reformers in a shared enterprise for other similar initiatives, such as the Colored Orphan Asylum in New York City (founded in 1836) and the Home for Colored Children in Pittsburgh (founded in 1880).

While none offered "a radical critique of segregation," they insisted that children of African descent were worthy of a "pleasant, homelike refuge" and "deserved an education as well as industrial training," in other words, the same standards of care as poor white youngsters.[53] The Nova Scotia Home for Colored Children was clearly a product of such principles. Its original inception reflected the self-reliance and resilience of African Nova Scotians in establishing its own social institutions to meet the needs of the community, although the Home also supported and maintained the pattern of racial segregation in Nova Scotia. Indeed, one of the reasons for its founding was a recognition that there were few options to provide care for Black children. Most white institutions either refused or preferred not to accept Black children under normal circumstances and there were few options for foster placements. As Lafferty notes in her consideration of the founding of the Home:

> Analogous to the other institutions in the province, the interwar and postwar years presented several challenges that threatened the viability of the home's existence, but the initial successes of the tactic of segregation ensured its endurance longer than what might otherwise have been the case. On the one hand, this endurance made certain that many children received care, education, and stability, despite the deeply embedded effects of racism and poverty in the province. On the other hand, however, it must be acknowledged that the home's existence fed what Sherene Razack has called an "illusion," one that was interwoven throughout the rhetoric of both Black and white supporters of the

> home and that perpetuated the worst aspects of recapitulation, namely the idea that these children were "not oppressed, merely different [or] less developed."[54]

Support for the Home by white leaders was grounded in the moral obligation to care for children generally, and the self-interest in establishing an institution that would address the needs of Black orphans, a matter the Reconstruction Committee post the Halifax Explosion recognized was particularly difficult.[55] As Lafferty claims, "[f]or many whites, Black children were, at best, a curiosity and a target for self interested sort of spiritual benevolence and, at worst, an undesirable element of the Halifax community, to be separated and ignored as far as possible."[56] The alignment of the goals of the Home with Christian charity and humanitarianism served to mask the underlying systemic and structural racism that necessitated the Home and shaped the history and experience of the institution.

As Strong-Boag notes, and Lafferty details in her consideration of the Home,[57] the balance between racism (or other prejudices) and humanitarianism was never predictable. Individuals and institutions involved in child welfare regularly revealed the inspiration of both. Whether racist or humanitarian in orientation, Canada's advocates of child rescue were rarely well resourced anywhere across the country. Budgets, whether for assistance, apprehension, or correction, were almost always less than needed to nurture girls and boys. Funding was all constrained because Governments had limited tax revenues. Improvements in child welfare, whether informed by racism or humanitarianism, almost always involved the least possible expense. Those viewed as inferior in parenting were expected to become low-cost mimics of those deemed to be socially (and racially) better.[58]

As discussed earlier in this chapter, the failure to provide sufficient public funding to meet the needs of child welfare, while affecting all private organizations (including children's aid societies and child caring institutions), had a disproportionate impact on the Home because of the smaller resource base and lower means of those within the community to augment funding with private funds. This required support from the broader (white) community in order to support and sustain operations. The need to ensure such support in an ongoing way shaped what was possible to that which was palatable to the majority population.

D. Child Rearing as Hard and Unpredictable Labour

Canada's 19th and 20th century ideologies of true womanhood, male breadwinning, priceless children, and child rescue increasingly shaped the public imagination and the proposed solutions to the challenges that families faced. For many families, raising offspring was hard and uncertain work and resources were commonly inadequate. Rearing children placed heavy burdens on adults, particularly women. The frequent sentimentalization of this work, however, often obscured its demands, readily allowing women and individual families to be overwhelmed, and, correspondingly, judged and blamed for their failure to meet the idealized standard.

The death rates for mothers, infants, and children are brutal evidence of the costs of raising children everywhere. As Strong-Boag noted in her submission to the Inquiry, Canada's rates of premature death and many diseases gradually fell from the 19th through the 20th centuries but disadvantaged communities, with their additional difficulties in guaranteeing food, housing, or good health, remained especially vulnerable. The shortfall in good outcomes contributed to domestic violence and instability that made child care all the more challenging, and, thus, more likely to come to public attention as deficient.

Canada's highly cyclical economy and regularly ill-paid, unstable, and dangerous employments worsened matters for those most vulnerable. Numerous reports from private and public child rescue efforts confirmed that the gap between family resources and demands was never restricted to periods of economic downturn, nor equally felt by all citizens. Their lesser entitlement to jobs and assistance meant that hard times haunted many African-Canadians, like Indigenous and other negatively racialized groups, as well as workers and parents with disabilities.

In response to persisting insecurity, families cobbled together remedies. In Canada's resource-dependent economy, where fathers might well be absent or unemployed for extended periods, hard-pressed mothers commonly developed income-producing strategies that were vividly summed up by Bettina Bradbury as depending on "pigs, cows and boarders."[59] Many wives and mothers learned to build an informal economy in order to try to provide stable homes when men's incomes were absent or intermittent. This situation was made even more difficult when women were single mothers. Suzanne Morton's research notes that this was the case in 16 percent of all families in Halifax between 1921 and 1931. Such women had no option but to engage in paid work outside the Home. Waged labour, most commonly as day workers in the homes of others, was part of many mothers' calculations for survival. As Gavigan and Chunn explain,

> Without a family wage, "family survival depended by necessity on intensive domestic production and the extremely close management of the household budget, to which were often added the earnings from paid work of the mother of the family." Notwithstanding the social disapproval of and the legal restriction on wage-earning (married) women, many mothers with young children often engaged in paid employment and/or a range of other paid work, including sewing; knitting; taking in laundry, boarders, or other people's children; selling home baked goods; performing domestic work in other people's homes; engaging in forms of prostitution; and making "moonshine."[60]

Employment outside the home nevertheless always remained difficult to coordinate with child-care duties that were assumed to be women's primary responsibility. That responsibility as mother and wife first did not change even as more mothers entered the paid labour force in the 20th century. As a result, exhaustion and poor health dogged many women and compromised their ability to parent.

In sum, child rearing was hard and complicated labour that often tested families. Women were regularly on the front line of its demands. Their well-being and reputation were always at stake even though their work was often invisible or romanticized.

As noted in Part 1 of this chapter, this was the experience of many female staff at the Home, certainly from the early years through to the opening of the new Home and likely beyond. It was particularly difficult for women in the early decades of the Home because employment for women was scarce. This, combined with the fact that many women were forced to seek outside employment because of hard economic times at home, means that some staff were reliant on their work at the Home for the own children's survival. As a result, many worked long hours under significant stress and insecurity.

Finding multiple sources of revenue meant survival for many families, but coordinating various sources of income and the work required could undermine mothers' supervision of their own youngsters. Modern Canada's increasing requirement for formal education, which included the gradual introduction of compulsory schooling until age 14, and eventually 16, also imposed new labour requirements on mothers. Their duties now included ensuring school attendance and homework and increasingly removed children as potential contributors to household work and family income.

In sum, child rearing was hard and complicated labour that often tested families. Women were regularly on the front line of its demands. Their well-being and reputation were always at stake even though their work was often invisible or romanticized.

The undervaluing of work with children in general, and women's work in particular, did not only apply to their work in their own homes, it carried into public space where workers, again often women, were likely to be badly paid for caregiving. The poor wages paid to staff in child rescue efforts, including orphanages, often contributed to high turnover, low morale, burnout, and abuse. Ultimately, the recurring devaluing of domestic and caring labour contributed significantly to failures in child welfare. This undervaluing of women's caretaking roles was evident in the history of the Home. Despite the fact that women were charged with the direct care of children, which was the core mandate of the Home, the value of this work was often not reflected in the pay they received. Throughout the Home's history, regular issues were raised with respect to the pay of child caring staff. A report by the matron of the Home to a special meeting of the Home's Board in 1970 reflected concerns about the issue of salaries generally and the differential treatment of women engaged in child care at the Home:

> Salaries have always been a point of contention in regards to Staff of the above Home. I realize that an adjustment was made in the latter part of 1969, but I have stated on numerous occasions that until classification of staff is brought into being, we will continue to operate on a second-class basis. This, to me, suggests paternalism on the part of the Board.

> With reference to the Salary Scale […] there exists some confusion as to who my Assistant is; the maintenance man and the Treasurer seem to be next in line. The Assistant Matron is third down on the scale. Child-care workers are in line with the Domestics. Do you still ask, "Why the confusion?"[61]

It is significant to understand that the white, male treasurer at the time was a member of the Board (and thus only fulfilling this role in a part-time capacity) and not a staff at the Home. Matron Paris goes on to explain:

> On two different occasions Mrs. Kinney has taken charge in my absence, for eleven months in 1968 and 1967 and again in 1969–1970. At no time did I ever feel that she was not capable of this responsibility. Please do not forget that Mrs. Kinney was Matron for about nine years and I served under her. I feel that the treatment that she has received is not worthy of her performance. Is it not embarrassing to her to know that the part-time Secretary-Treasurer and Maintenance Man receive a larger salary than she does, especially when she is told that she is in complete charge in the Matron's absence?[62]

In 1979, when the Board appointed Jane Earle as interim executive director, she was originally volunteering her time in the role and was eventually compensated only with reimbursement for her child-care expenses.

As Chapter 3 recounts, regular reports on the Home cited the lack of training, experience and skill of staff. This remained the case well into to 80s, even after the staff unionized and the Home ensured professional qualification for the executive directors. As we noted earlier, this issue was significantly linked to systemic racism in Nova Scotia that resulted in less opportunity for African Nova Scotians to acquire education and training. It is also important to acknowledge that child care (beyond the related work of teaching) was not generally viewed as a profession with established and available education and training standards. F.R. MacKinnon, Director of Child Welfare and then Deputy Minister of Social Welfare spanning almost a forty-year period noted:

> In 1937, the number of professional social workers in Nova Scotia working in the public and private sectors could be counted on the fingers of one hand. [63] … In 1939, there were few professional social workers in the Department [of Social Welfare] and no specialized program of staff training and development. What staff training existed was carried out on an *ad hoc* basis in each program area. …The Children's Aid Societies were grossly understaffed and had limited funds for initiatives such a staff training. This state of affairs continued throughout the 1940s and early 1950s.[64]

This situation led MacKinnon and others to establish the Maritime School of Social Work in 1941. It was not until the late 50s into the 1960s that professional social workers formed a significant core of the Department staff, and MacKinnon noted that the Department still lacked a unified staff training and development program.[65] The situation was much worse and endured much longer at the Home, made more challenging because of the racial inequality for African Nova Scotians. Although supporting staff training and development and retaining a professional social worker and trained staff was an issue for all private child caring institutions given their limited resources. As Lafferty noted, the changing expectations of the level of staff training needed for group care settings "presented serious obstacles for institutions seeking to alter their mandates and continue functioning as child welfare facilities."[66]

> Indeed, group care was beyond the financial capabilities of most local institutions. In describing its staff qualifications to Smit[67] (from the Canadian Welfare Council) in 1958, for example, the Protestant Orphan's Home stated that "[t]he only qualifications re staff that we have been able to adhere to is to have an even disposition and a real love for children. We have no actually trained in social service members on our staff at present." The home did reassure Smit, however, that it had "raised …standards lately and have increased our staff considerably." … Significantly, institutional managers were often told that their perennial financial concerns must be interpreted in a *positive* way and taken as a lower priority than the quality of their staff. … In 1960 Smit wrote to Kinney at the NSHCC expressing similar opinions. Although "an institutional program is expensive," he stated, "this cannot be an excuse for operating on a substandard basis, which cannot be truly helpful to the children… this is 'strong medicine' but, I think, important to think about."[68]

The experience of staff at the Home also reflected the lack of value placed on child caring work. They were poorly paid for much of the history of the Home, a fact noted by the Board at intervals in its history but only in response to staff protests or external reports. For much of its history (up to the opening of the new Home and the union organizing and job action that coincided with its opening), financial priorities and fundraising efforts were not focused on staffing the Home. Perhaps the notable exception was the initial fundraising efforts to establish the Home and acquire a matron from the United States. The lack of qualified and skilled staff had a significant impact on the nature and level of care provided to residents of the Home. It also presented a significant challenge to respond to recommendations to improve care coming out of regular reviews and reports. Our review of governance and operations of the Home reveal a significant disconnect between the Board of the Home and the staff with respect to appreciation of the realities of the Home day to day, and the capacity to respond to issues and instructions from the Board.

E. Families' Search for Help and Additional Resources

The historic uncertainties of parenting remained in modern Canada and drove mothers and fathers to continue the search for help. Traditions in all cultures have regularly involved sharing youngsters' care with kin, whether biological or chosen, immediate and extended family, and community (including godparents, honorary aunts and uncles, and the like), and non-kin (servants, governesses and tutors, mistresses and masters, foster and adoptive parents, and institutions).

This culture of child care as a community undertaking was and remains strongly established in the African Nova Scotian community. As reflected in the discussion in Chapter 3 of the Origins of the Nova Scotia Home for Colored Children, by necessity, and as a matter of faith, community members felt a shared responsibility to care and provide for one another, and particularly for children in the community. Indeed, this commitment was foundational to support for the Home as a resource to families and communities who could not meet the significant need for help.

Traditions of collective child care should not, however, be sentimentalized. Some youngsters, particularly those whose birth families could not contribute to their upkeep or were, themselves, otherwise assessed as mentally, physically, or socially deficient, regularly found more abuse than nurture whether they lived at home or away. In short, no setting, whatever its celebration in mythology or tradition, entirely escaped unkind, indifferent, or predatory adults.

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The experience of former residents of the Home is a powerful and painful testament to this truth. Even in an institution established out of a steadfast community commitment to the welfare of its children, and the subject of pride and support throughout its existence, many experienced neglect and abuse. This experience was not unique to the Home and often continued for children who were placed in foster care or adopted.

Help in child raising involved at least three possibilities in Canada as elsewhere: assistance to birth parents; transfer of children to other households; or their assignment to institutions. As outlined in Chapter 3, these options shaped the mandate established for children's aid societies in Nova Scotia and elsewhere. The first solution came informally from family and kin groups. Female family members, notably aunts and grandmothers, stood on the front line of such assistance. When such alternatives to birth parents failed or were unavailable, Canada's European settlers, often following British and American models, slowly developed charitable and Government responses, beginning with what was often termed "out-door" relief and extending eventually into the welfare state after World War II. Charitable and state remedies could be (and were often deliberately) highly intrusive and designed to discourage their use. They also favoured those who were thought to be respectable and deserving. Others — among these those

who were negatively racialized — were far less likely to be welcome or to get comparable benefit if they came to the attention of charities or Governments. Aid in keeping children at home was nevertheless almost always preferred by families who hoped to stay intact over hard times.

Over time, there was an increased recognition of responsibility for child welfare by Governments. This coincided with a broader understanding of the needs of children beyond mere food and shelter to focus on the social and emotional well-being of children. These changing ideas and improved access to health care reduced the primary focus on orphaned children to concern focused on the living conditions — neglect and abuse. As the view of child welfare changed from a charitable cause to a matter of public responsibility, there were significant developments in legislative authorities and regulatory oversight of children and child caring. Governments also started to invest in supports to enable children to continue to live with their families. This included the establishment of Mothers' and Family Allowance programs that sought to alleviate some financial strain to enable children to remain in their homes. For example, the Report of the Survey of Child Welfare Services in Halifax by the Canadian Welfare Council noted that "[u]nder the new public assistance program in Nova Scotia 350 children have already received assistance (Sept. 1958) while remaining in their own families."[69]

As the view of child welfare changed from a charitable cause to a matter of public responsibility, there were significant developments in legislative authorities and regulatory oversight of children and child caring.

The lack of formal and informal supports for families to meet their needs and deal with their issues without the intervention of the Government, however, persisted despite developments of the modern welfare state and increased the number of children made wards of the state. The number of non-wards in care of the Home is interesting in this respect. It shows that the Home was viewed and used by some families and communities as a support for families without triggering intervention by authorities.

The second option of children's transfer to other households as workers or apprentices, or as foster or "adopted" children, had an informal history that dated back well before the emergence of the official fostering or adoption programs in the late 19th century. When fostering or adoptive households known to birth families took youngsters, acceptance was more likely, but not all children were equally welcome in their new settings. By the 20th century, babies of the "right" colour, religion, health, and, sometimes, gender were regularly preferred candidates for fostering and adoption. Older children, sibling groups, and those marked variously as inadequate had few takers by other households except as labourers in fields or maids in homes.

...the Home was viewed and used by some families and communities as a support for families without triggering intervention by authorities.

Generally poor recordkeeping meant that fostered and adopted children were also easily lost sight of and more

readily mistreated or abused even as Governments and charities endeavoured to modernize child welfare. Such outcomes made fostering and adoption additionally feared by many birth parents. Such fears were often disregarded as modern-minded authorities increasingly thought it was better to break links with suspect original families. This was reflected in the increasing preference and push for adoption. While often explained as a preference for permanence and stability for children, it was also attractive as a solution that ended state responsibility for such children. In that context, the option of institutional, or 24/7 care, which more readily promised the possibility of reunion, could well seem preferable to many original parents.

Institutional care developed as a key part of child-care and child-rescue efforts. As the extension of public schooling demonstrated from the mid-19th century on, institutions have a diverse history and always have advocates. The modern cult of the precious child justified segregation and protection from adults and generated interest and hope for forms of collective care. Better-off Canadians were not immune: after all they readily used boarding schools and summer camps to get a break from parenting and offer their offspring better opportunities. Those choices, which had their own history of child abuse, were, however, never regarded as indicators of parental shortcoming. Better-off Canadians could escape 24/7 child-rearing duties without judgment. Their own investment in certain types of collective child-care arrangements also contributed to the failure of elites to recognize how institutions might pose special threats to the vulnerable youngsters.

As modern child-centred institutions of many sorts emerged in the 19th and 20th centuries, poorer families could easily regard them as a possible escape from the alternative of poor law institutions or even in jails. By such measure, orphanages, revealingly frequently called children's homes, like the NSHCC, seemed to be a marked improvement over other existing options. While a few disadvantaged youngsters continued to be found in adult prisons and institutions for the poor well into the 20th century, the mid-19th century saw orphanages, previously rare, emerge to promise segregation, training, and protection, notably for children deemed respectable. They were widely promoted as proof of collective community responsibility, in effect extending the duties of care long associated with extended kin. Indeed, this was the backdrop for the establishment of the Home as children were barred from poor houses in Nova Scotia, in advance of its founding, to protect them from unsavory and unsafe environments. This generated the need for other institutions willing and able to accept children, which was particularly challenging for Black children in the era of racial segregation.

From the beginning, orphanages regularly used exclusionary policies to gain respectability. Mainstream institutions regularly excluded African-Canadian, (as well as Indigenous and Asian and other negatively racialized families). Many refused youngsters who were obviously disabled, illegitimate, or the offspring of parents judged morally unfit. Early child welfare initiatives, such as the Protestant orphanages, much like later mothers' pensions and allowances programs, rarely embraced a racially diverse clientele. When Black and Indigenous children were allowed entry,

they commonly received fewer benefits. This was the case in Nova Scotia when the Home was established. In 1917, Blois inquired from several of the existing child-care institutions whether they accept Black children. They responded with "no" or "rarely" and they would prefer not to do so.[70]

In 1917, Blois inquired from several of the existing child-care institutions whether they accept Black children. They responded with "no" or "rarely" and they would prefer not to do so.

The early history of the NSHCC repeated the pattern of exclusion by emphasizing service to respectable and healthy youngsters.[71] For example, Sadie Steen, a registered nurse, served as the matron of the Home when it opened in 1921. In a letter to Superintendent Blois she said: "My attention has been drawn to the health of the children, as well as their ability to move around in the house from place to place. I understand that the children must be able to walk and be healthy."[72] She wrote to report that she had a child placed in her care with an infectious disease and was concerned that if they were to continue to take such children the standards at the Home would soon be lost and there would be heavy additional costs to care for such children. She is careful in her letter to note she has compassion for the child currently in her care and is not trying to oust him, but the message regarding future standards is clear. That is, they are not to have any contagious or infectious disease. Like its mainstream counterparts, such policy reflected both prejudice and an attempt to assert respectability in order to gain support. The Home also did not accept white children until the mid 1960s and was slow to grow this population of residents until they opened a receiving centre at the new Home site. This exclusion was maintained, in part, because of segregation in society, but also to stay true to the purpose and service of the Home for the African Nova Scotian population.

As discussed in Chapter 3, and earlier in this chapter, the AUBA played a central role in the history of the NSHCC from the Home's inception and throughout its operations. This church involvement was not uniquely true of the Home. Indeed, religion was often central to such initiatives.[73] Throughout Canada (and more broadly), Protestant, Catholic, and Jewish communities used faith-based children's homes to affirm their commitment to proper child rearing and to help ensure their own survival. While religious efforts were especially common, ethnic groups and working people's unions and fraternal societies sometimes also attempted to address members' recurring need for emergency and long-term child care. That inspiration sometimes found expression in orphanages. However, not all youngsters were equally served in such ventures. Institutions of every sort often had a hierarchy of entitlement that preferred some youngsters and regularly excluded those considered outsiders or unrespectable. This was true in Nova Scotia, for example, where the child welfare laws were silent about race but clear about the segregation of Catholics and Protestants in placement decisions.

Right from the beginning, children's institutions varied widely across Canada. Many were little more than private homes, accommodating a few dozen children or fewer. Others, such as The

Mount Cashel Orphanage in St. John's, Newfoundland and Labrador, and New Westminster's Loyal Protestant Home for Orphans in British Columbia, stood as massive monuments to investment in out-of-home child care. Smaller homes commonly placed youngsters in local schools and integrated them into neighborhoods through involvement in children's clubs.

Some institutions, such as Winnipeg's Jewish orphanage, Toronto's Earlscourt home, and Charlottetown's St. Vincent's orphanage, deliberately encouraged ties with family and emphasized educational and cultural benefits for their respectable charges. Others became "total" institutions, aiming at greater separation from birth families and local people.[74] As such, they often ran their own classes and training, and some even required distinctive uniforms to single out their charges. They created a "self-contained world" that was said to characterize the NSHCC by 1931.[75] Indian residential schools resembled those segregated efforts as well. The Law Commission of Canada in its report *Restoring Dignity: Responding to Child Abuse in Canadian Institutions* gave particular attention to this nature of child caring institutions and its connection to child abuse.

> To fully understand the impact of past institutional child abuse, it is crucial to investigate the nature of life in those settings at the time the abuse took place. Although children lived in a wide variety of institutions, designed for different purposes, serving different communities, and located in different regions of the country, all can be described as total institutions. This term refers to institutions that seek to re-socialise people by instilling them with new roles, skills or values. Such institutions break down the barriers that ordinarily separate three spheres of life: work, play and sleep. Once a child enters, willingly or not, almost every aspect of his or her life is determined and controlled by the institution.
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> …
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> Total institutions are not simply places to live; each is a world unto itself. In this world, those who are in charge hold all formal power. Rules govern almost every aspect of daily life and residents have little say about how these rules are administered.[76]

In the early decades of the Home, former residents' descriptions of their experience reflects its total nature. They recount rarely, if ever, leaving the property. They went to school onsite and generally attended services at the Home. This was the subject of concern by those who inspected and reviewed the Home.

In the early decades of the Home, former residents' descriptions of their experience reflects its total nature. They recount rarely, if ever, leaving the property. They went to school onsite and generally attended services at the Home. This was the subject of concern by those who inspected and reviewed the Home. In part, this was a function of the location of the Home. Its rural setting a significant distance from the city had been an initial

concern of the superintendent with the site. At the time, he was concerned that the location would be too remote to be accessible for African Nova Scotian communities from across the province. In a letter to the Provincial secretary following an inspection of one of the proposed sites for the NSHCC in Preston, Blois wrote: "I do not approve of the site if the first type (A) [an institution to care for neglected colored children along the lines of our orphanages for white children] is to be erected there. I consider the situation altogether unsuitable."[77] He became convinced in short time, however, by the value of the rural setting and the benefits it offered residents and its proximity to the nearby African Nova Scotian community. Despite this perceived advantage, reports about the Home regularly expressed concern about the lack of contact and connection residents had with community. The amount of contact improved over the decades as children attended local schools and as development reduced the social distance between the city and surrounding areas, yet many former residents recount the sense of isolation they experienced in community owing to the stigma of being from the Home.

The reality of the difficulty of placing Black children in foster homes was one of the driving forces for the creation of the Home. It is notable that the Home was established at a time when institutional care for children was already significantly out of favour with experts.

Orphanages generally provided both emergency and long-term care. Although some girls and boys were fully orphans, many were brought in by widows and widowers, by overwhelmed couples, or by authorities who apprehended children judged neglected or abuse. Links could remain strong with such biological kin, especially when they remained non-wards, with family trying to pay something for care and when sisters and brothers entered together. Despite such benefits, many institutions experimented with fostering and adoption, especially for youngsters, with little hope of rejoining their first families. In other words, no firm line separated orphanages from the external placement of children. The concern with fostering and adoption increased substantially as institutions fell out of favour as primary solutions for children in need of care.

Many youngsters cycled regularly in and out of institutions as parents' resources ebbed and flowed. When families failed to recover, a minority stayed for extended periods. The reality of the difficulty of placing Black children in foster homes was one of the driving forces for the creation of the Home. It is notable that the Home was established at a time when institutional care for children was already significantly out of favour with experts. One of the compelling reasons provided in favour of the institution was the lack of alternative placements for Black children. In a letter to the Chairman of the Industrial School in Halifax seeking a site to begin operations of the Home, Blois, then Superintendent of Neglected and Delinquent Children, explained that "our existing institutions either will not or cannot accommodate cases when they arise, with the result that no provision is made for temporary shelter for the very small colored children."[78]

In 1962, the director of the Home indicated to a visitor from the Canadian Welfare Council that, in his view, the children's aid societies were "not sufficiently aggressive in seeking homes for the coloured children" who resided at the Home.[79] Kinney went on to note, according to the visit report, that he felt he and his staff might be more successful at discharging this duty. McAllister, the visitor, indicated that she "would judge that some agencies have, in effect, told him that they do not wish the staff of the NSHCC making excursions into the areas of foster or adoption home finding and child placement; other agencies have indicated that if the Home can find a home for a child the Agency will at least explore the possibility and approve it."[80] This speaks to the question about the intended scope of the role and function of the NSHCC since its founding legislation secured it the power to act as a children's aid society. Although it never served as such formally, informally it seems that the Home was involved in efforts to find placements for some children. Accounts of former residents are littered with stories of visits from prospective foster or adoptive parents in the front room while they all had to behave for the guests. Former resident reflected how distressing this was, particularly when siblings were involved and they were fearful that they would lose a sister or brother. Kinney noted in a letter to Eric Smit, Executive Secretary of the Family and Welfare Division of the Child Welfare Council, that in 1961 the Home "had to make some placements on our own in respect to such [hard-to-place children] cases, we call it a visiting arrangement until the plan has a [chance] to work out and the case is passed over to the Agency concerned. To date this type of arrangements had been fairly successful and have made a couple of arrangements for the older children this past month."[81]

It seems likely that, from the perspective of the community, and, perhaps, the staff of the Home, there was no bright line distinction (as there was from the perspective of the child welfare system) between children from the community who were wards and non-wards with respect to finding them suitable care arrangements.

Understood in the context of the Home's role as a community institution, it is perhaps not surprising that it would be engaged in the activity of arrangements for children in connection to the community. It is also significant, in this respect, that the Home had non-ward residents, and, as a result, would have engaged directly with family and community regarding the care arrangement for these children who were not connected to a children's aid society. It seems likely that, from the perspective of the community, and, perhaps, the staff of the Home, there was no bright line distinction (as there was from the perspective of the child welfare system) between children from the community who were wards and non-wards with respect to finding them suitable care arrangements.

This idea about placement may also reflect the significant challenge the Home experienced in dealing with the children's aid societies. The societies faced many of the challenges of private child caring institutions, especially in the first part of the 20th century when they struggled with funding and capacity to fulfil their duties. This was more difficult with respect to the Home, given

its location was often some distance from the placing agency. For the Home (and other similar institutions), this relationship was a source of ongoing strain and problems. The Canadian Welfare Council review of child welfare services in Halifax in 1958 spoke to this issue:

> The Society [children's aid society] is forced in to relationships with the institutions because it turns to them for help in caring for its wards. Unfortunately, lack of staff and rapid turnover in the staff has meant that the actual working relationships between the institutions and the Children's Aid Society have not been as full and helpful as they might have been. From the Institutions' point of view a child is frequently "dumped" in their laps.[82]

The Home was in a more complex administrative situation than other institutions because it was receiving children from across the province and beyond. This meant navigating and negotiating placements and payment with a number of children's aid societies that frequently were delayed in payment, as was reflected by the consistent theme in reports about the Home that they lacked systems and skills to keep adequate records and track financial payments.

The Home was in a more complex administrative situation than other institutions because it was receiving children from across the province and beyond.

This speaks to another significant issue present throughout the life of the Home in various forms: the lack of coordination and integration of child welfare services that contributed to the strained relationships with the Home and the complexity of meeting children's needs. The need for better co-operation and integration of services in child welfare was the subject of attention and recommendations in reports about child welfare and the Home throughout the latter half of the 20th century. The fragmented nature of the child welfare system, owing to the ad hoc and isolated development of various responses both within the community and Government, over time posed significant challenges for institutions, and, most significantly, for the experience of children with the care system. The Canadian Welfare Council report in 1958 explained:

> Halifax does not differ from most communities in Canada in the way it developed its social services. At various times over many years a need for some particular service became apparent, and alert individuals organized services to meet these situations.
>
> The services that grew up in this way were not co-ordinated in any way until the establishment of the Welfare Council of Halifax. This Council does not have any authority in exercising its function, but must rely on understanding and acceptance to accomplish its aims of co-ordinating services and planning for the welfare needs of the community.[83]

The report also noted that the siloed and fragmented approach to services was reflected within the organization of the children's aid societies themselves:

> The agency's professional services are departmentalized, that is, the various workers are assigned to particular parts of the total function, protection, child care etc., of the Society. This is of course an administrative convenience, but there is some evidence to show that a more generalized caseload for workers provides a better service in the long run. The traditional approach to child care distinguishes sharply between the child in his own home and a child in a foster home. Today, it is recognized that while there may be physical separation from parents, there is not necessarily a psychological or emotional separation. In view of this it can create difficulties if one worker is working with the family and another worker with the child. Frequently time must be taken up needlessly in clearing matters between two workers.[84]

A subsequent report on child welfare services in Nova Scotia by Ernest Majury in 1964 similarly recommended an integrated approach to child welfare services:

> Probably the most important of all is the recognition that services to families and services to children cannot really be separated if we are to give effective service in either area. It has been amply demonstrated that there are very real advantages for clients when a single unit contains a service to help avoid a break-up in a family and at the same time, the ability to give care when this is required. The best child care requires an integrated service directed to help families deal with their problems and to children who must be removed from their own homes because each is less likely to be effective if separated from the other.[85]

Lack of foster homes considered appropriate for Black children kept the Home offering institutional care long after most similar institutions had closed. In the early years, foster care was lacking because there were few willing or able Black families and white families were not willing or were thought to be inappropriate placements by authorities. In 1962, McAllister's field visit report concludes that "[t]he very existence of this facility, [the NSHCC] particularly [now] that it has a new wing and there is less overcrowding, probably contributes to the negligence of agencies in ardently seeking homes for the children who they now consign to an institution. How very sad."

A letter from the executive director of the Children's Aid Society of Queen's County to the assistant director of child welfare in 1966 discusses the issue of lack of suitable foster homes for coloured children as a "serious problem" and requiring significant attention from the "board members and Directors of the Agencies concerned."[86]

Attention to the issue, alongside the development of more socially progressive views regarding integration, resulted in greater access to foster placements for Black children. Such developments were, however, not totally welcome by the NSHCC. As early as 1954, the Home expressed concerns that Black children might be being placed in other institutions and not at the Home.[87] The increased placement of Black children in foster homes was met with similar objections and concerns from the Home. This was, in part, characteristic of the tendency noted by the Canadian Welfare Council's review of Halifax institutions that "[s]ome of the institutions offering group living experience for children still are inclined to see the institution as a rival method of caring for children rather than offering specific service to children who have special needs and in partnership with both the foster family placement services and the protective services which are endeavouring to maintain or restore the child's own home."[88] In 1962, the Home made the argument that the Government of Nova Scotia should financially augment the operation of the Home for reasons including:

> (1) The major problem is the continuous withdrawal of children by the Children's Aid Societies for the purpose of re-locating them in Foster Homes and that new children coming under the care of the Societies are also being placed in Foster Homes. This situation is reducing our Maintenance Revenue to a position where it is difficult to maintain our operation.
>
> (2) We heartily endorse placing children in Foster Homes where care, love and affection is given to the youngsters. On the [other hand], we maintain that the care and affection given our charges is the equal if not superior to that received by the children in many foster homes, particularly those where there is a multiplicity of children.
>
> (3) For comparative purposes, our Home is geared to house 60 children. At the present time, we are looking after 30. When we began our 1959–1960 year, we had 43 ward cases and 9 non-wards. At the end of the 1960–61 year, there were 33 ward and 9 non-ward children. At present we have only 30 children to care for.
>
> (4) …
>
> (5) The net loss of 20 children represents a cut in maintenance revenue [of] roughly $15,000 annually, at present.
>
> …
>
> In conclusion, we would beg to point out that if a grant is awarded, it will cost the Government no more than if the number of children was up to normal.[89]

The Minister of Public Welfare's response to the Home's request noted the Government provided two recent grants totalling $40,000 (in 1959 and 1960 respectively.) The Minister continued:

> These grants were in addition to the statutory per capita grants made for the care of children in the Home. I should emphasize that this extra assistance was larger than had ever been granted at any time previously to a child caring institution or Children's Aid Society. Moreover, it was made at a time when the trend all over the North American continent was, and continues to be, towards the use of foster homes and boarding homes for children in need of care and protection. We felt, however, that the grant was justified in view of the very special handicaps under which our colored population live.[90]

The Home's response also revealed a concern for the impact on the viability of the Home and its mandate to care for Black children. The reduced numbers of residents had significant implications for the financial health of the organization. Also of significant concern was the shift in child welfare underlying the reduced numbers. The change in approach to child welfare away from institutional care was actually well underway at the time the Home was established. By 1929 "the herding together of children in an institution under one roof [was] considered criminal by advanced studies of child welfare."[91] Despite this emerging consensus, some organizations remained committed to old ways of child saving, "as late as the 1920s when fostering had become a preferred method."[92] Yet it found favour as a means of responding to the particular circumstances of the African Nova Scotian population and the deeply racialized society at the time. As Lafferty notes,

> If the practical consideration of managing the province's population of endangered children prevented a concerted shift away from institutional care, so too did the symbolic place that these homes held in the community. The institutions were much more than the sum of their practical efforts; they were living expressions of a particular cultural and religious community in the province. This blend of the practical and the symbolic was particularly conspicuous at the NSHCC, as evidenced by the pomp and ceremony of the official opening. In the nearly two-decade-long campaign to organize and fund the building of the home, its place in the community came to transcend the basic elements of the service it would provide to children in need. It was fundamental to the creation of what Kinney frequently called "race-pride" and "race uplift". In other words, he viewed it as the physical expression of the black community's place in the wider culture and politics of the province, a means of demonstrating its worth and ability to its membership, to the child welfare system, and to the population of the province as a whole.[93]

By mid-20th century, child welfare was significantly committed to de-institutionalization and oriented to fostering; adoption with congregate care only was a last resort for a small portion of the population of children in care. This shift away from institutions was expressed in the 1958 Report of the Canadian Welfare Council on Child Welfare Service in Halifax.

> Child welfare is concerned today with those factors which militate against the growth and development of a mature and socially adjusted individual. It is accepted that the place where a child can best achieve this emotional balance is in his own home. If for some reason this is not possible, then substitute family life must be found for him. … If he has not had the experience of living in a family and relating to the other members of that family in a normal way as a child, he is less likely to know how to live and relate to others in a family group when he becomes an adult.
>
> Sometimes it is not possible to place a child in a family setting immediately because of the deep-seated problems within the child or he may not be able to accept substitute family life at once. Then he needs the experience and protection of group living in the institution. But this should be for only as long as he needs it, and with help he should be reintroduced, as soon as possible, to family living once again; preferably that family should be his own.[94]

The 1964 Majury Report, while not charged explicitly to make recommendations about child caring institutions, offered some valuable insight into the shifting terrain of the purpose and philosophy of care of children. The report summarized the important history of child caring institutions within the province and noted that the "whole approach in regard to institutional care has changed radically." It stated that, while institutions were considered part of the total spectrum of child welfare, they should only be utilized for "that particular child whose carefully diagnosed need is specialized group care on a short term basis." The report stated that long-term institutional care was no longer considered valid.[95]

In June 1971, in correspondence with the Minister of Public Welfare about their financial difficulties, the Home raised concern about the number of Black and biracial children being placed into foster homes. They argued that if they were placed in the Home instead, it would help improve the Home's financial position.[96] In reply, the Minister gave a clear account of de-institutionalization underway in Nova Scotia. He wrote:

> … you refer to the financial problems you are encountering in the operation of the Home. This has implications over and beyond the points that you raise about black children in white foster homes, and I am advised that all child caring institutions are experiencing similar difficulties. The Little Flower Institute is in the process of discontinuing operation because of lack of children and financial problems.
>
> … the Protestant Orphanage on Veith Street closed out last year and is performing a completely different function now. The Halifax Infant's Home closed out a number of years ago. St. Joseph's Orphanage has ceased to function, and the Home of the Guardian Angel has drastically changed its intake policy. In other

> words, the problems that you are experiencing at the NSHCC are common to all such institutions, not only in NS but across Canada and the US.[97]

The NSHCC's concerns about the impact of this shift to foster care also reflected an emerging policy debate about the appropriateness of intercultural or "transracial" placements in Nova Scotia with respect to placement of African Nova Scotian children with white families. The minutes from the Home Board meeting in July 1970 record that Board member Carrie Best "reported that in New Glasgow 40 Black children are in foster homes. Approach should be made to CAS'S. She stated that we are undergoing cultural genocide in that there appears to be a conspiracy against the Home to prevent Black children from being admitted. It is important to start thinking about the future developments of the Home."[98] As discussed in Chapter 3, the issue of Black children placed in white foster families was of significant concern to the Board and the subject of inquiry to the Department to determine the scope of the practice. In 1971, the Board of the Home met with the executive directors of the 12 children's aid societies to outline its concerns with respect to the placement of African Nova Scotian children. It prepared a report in advance of this meeting that named some Board principles the report was based on, including:

> Black children should be placed with Black foster or adoption parents in order to counteract any psychological deprivation a child might experience while being in White foster or adoption homes.
>
> …
>
> The Nova Scotia Home for Colored Children should remain a child-caring institution looking after the needs of Black children by providing a comprehensive child-development program; and
>
> The Nova Scotia Home for Colored Children should receive more Black children from agencies in order to make such a program meaningful.[99]

The report contemplated several matters that should be addressed in the meeting with the children's aid societies' executive directors including:

a) Institutional care vs home placement care – with the Home taking the position that the Black child would be better off in the institution with comprehensive programming given the lack of Black foster homes and maintaining the need for the Home focused on such care.

b) Home seeking greater control with respect to placement of Black children.

c) Home insisting that race should be a factor in social welfare policy particularly with respect the child care.

d) The need for increased financial support to continue.

The report clearly reflected the serious concern of the Board with the removal of many children from the Home and the decision to place children in foster care rather than the Home. The Department indicated to the Home that concerns with the isolation children experience living in an institution and the lack of a comprehensive program for counselling were the rationales for removing children from the Home. There was obvious concern that this reflected plans to close the Home or to significantly alter its operations away from a focus on the care of Black children. The report concludes: "one cannot help but wondering whether or not this is a smokescreen to remove the children thus forcing us into a position to close."[100]

A study by law professor Wayne MacKay in 1977 noted, "[s]tatistics indicate that the chances of a black baby under one year of age being adopted [had] greatly improved. … However, the outlook for the older black child [was] still bleak." In such cases, MacKay explains foster care is the most likely result. As a long-term option, as was frequently the case for Black children, he acknowledged significant disadvantages. "A black child is often shifted around from one home to another. This lack of permanence and stability makes it very difficult for the child to develop as a secure individual." In his exploration of transracial adoptions involving Black children to white parents, MacKay found that there was a policy to take race into account in determining placements and make efforts to place children with families of the same racial background. However, given the scarcity of Black families open for adoption, this policy did not significantly impact the placement of Black children. His data revealed that "most black children are adopted by whites rather than blacks." He did note that the "normal practice in such transracial adoptions is to acquire a release from the natural parents consenting to the placement of their child in a white home. In some cases black parents requested that their child be placed in a white home."[101]

There was significant debate about the appropriateness of transracial adoptions. Black organizations and leaders, including the Black United Front, argued that such placements robbed children of their cultural identity and were an injustice to the child. The American Association of Black Social Workers viewed the practice of transracial adoption as an attempt at assimilation – cultural genocide in disguise.[102]

The move away from institutional to home care options resulted in a push to find adoptive families. In the 1970s, the Atlantic Adoption Exchange was established as a joint initiative of the four Atlantic provinces. In cases where no adoptive family could be found in Nova Scotia, children were advertised across the Atlantic region and, if not adopted at the regional level, were advertised at the national level, and, finally, throughout North America. Such adoption exchanges increased the possibility of placing Black babies with Black families. However, it allowed children from the African Nova Scotian community to be placed in other provinces and even other countries. This

practice was met with opposition from members of the Black community concerned with the export of their children and there was protest lodged with the Department of Social Services.[103]

While efforts were made to seek out individual placement alternatives for Black children, the reasons for the scarcity of options with Black families was not fully considered. One cannot understand why individual Black families were unwilling to foster or adopt without examining the larger context of systemic and structural racism that presented barriers. There were obvious economic issues, given the level of inequality for African Nova Scotian communities. This was acknowledged in the Hall Report for the National Study Service in 1970. He stated: "[t]he professional staff in the foster family programs reported that they find special planning and effort is necessary to secure foster family care for black children. They state that this is related to the low income level and poor housing conditions by the fact that many of Nova Scotia's population of 20,000 live in isolated rural settlements. These persons believe that there may be continuing justification for a child rearing institutional program for some black youngsters from extremely deprived homes."[104] There was also a culture of suspicion and mistrust of authorities and systems that created a disincentive for Black families to open themselves up to scrutiny.[105] MacKay recounts:

> Art Kriss of the Black United Front felt that a black child without a home is a problem of the black community and should be dealt with as such. Mr. Kriss said there is a need to de-institutionalize and provide homes for babies in the black community itself. In the past the black community always looked after its own children via the concept of the extended family. It is Mr. Kriss' view that this older approach can be revitalized.[106]

Indeed, this was the vision and hope particularly of those from the African Nova Scotian community who founded the Home. Contrary to the founders' high hopes, however, the Home, like many orphanages, and like Indian residential schools and institutions for youngsters with disabilities, became a site of abuse and mistreatment. Such outcomes appeared especially likely when neighbouring adults were unable to oversee care, were highly stigmatized themselves, or when institutions were run by groups, such as the Christian Brothers, that were protected by assumptions of their superiority and notions of appropriate deference.

Orphanages and children's homes that accommodated youngsters whose kin were nearby and deemed capable of reconstructing their families were likely to be safer. But if some children were less vulnerable to adult predators and general unkindness, no group was entirely immune. Orphanages, therefore, were one response to the persisting problems of child care. Like the introduction of formal fostering and adoption programs, they promised some of the benefits of protection, segregation, and dependence of modern childhood. And just as with those remedies to the demands of child rearing, they readily channeled the prejudices of the day and offered opportunities for mistreatment.

This reality clearly marked the history of the Home and the experience of its residents. Many former residents across the generations who resided in the Home recounted experiences of neglect and abuse. It is clear that the conditions of institutional child caring and the challenges it presented across the years the Home operated contributed to conditions that failed to meet the needs of the children in care. The evidence we have examined reveals the significant impact of lack of resources, inadequate training and experience of those tasked with care, inadequate support and oversight, and the vulnerability of those working at the Home significantly contributed to the failures of care and harms felt by residents.

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While the Home was not unique in terms of the harms connected to institutional care, there were some factors that increased the vulnerability of its residents to mistreatment. The location of the Home and the fact that it served the entire province meant that many residents were far from family, decreasing contact and increasing their isolation and, relatedly, their vulnerability to mistreatment. Other residents had no parents or close family connections, so there was no one outside the system watching over or checking in with them. This was another factor in the risk and vulnerability for some residents. Finally, the nature of child welfare and the private nature of the institution resulted in thin, if any, supervision in the early years, and oversight and reporting were spotty even in the later years. Even as oversight increased with respect to the institution, little attention was paid by children's aid societies and, later, social workers to the experience of individual wards placed in the Home.

Our examination of the governance and operations of the Home revealed that significant attention and concern throughout the life of the Home was focused on protecting and preserving the reputation and continuation of the Home. Indeed, throughout the early and middle decades of its operations, there is a surprising lack of attention in the available minutes and correspondence of the Home regarding the care of the children. This is in stark contrast to the focus on the children in the annual reports and fundraising efforts during the same period. This focus on the quality and nature of resident care increases in the 1970s, and particularly after the move to the new Home. In part, this seems to reflect the changed nature of the services offered by

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the Home, including serving as a receiving centre, resulting in shorter-term placements for youth coming from other institutions or placements. The relationship with the child welfare system also shifted during this period, resulting in greater oversight of standards and programming. The increased focus on child care, however, did not mean an end to the patterns of mistreatment and abuse that characterized residents' experience in early years.

F. Resistance

In child welfare (as with other areas), exclusions and discrimination fostered long-standing traditions of resistance by disadvantaged communities. Efforts at mutual aid from unions to friendly societies and co-operatives[107] tried to offer respectable alternatives to the dominant efforts at child rescue. The NSHCC is in line with these efforts as "an expression of ethnic pride" and "racial uplift."[108]

The strategies involved in such resistance efforts included both claims to the respectability of the dominant ideologies of true womanhood, male bread-winning, the precious child, and child rescue, and assertions of distinctive traditions and ongoing capacity of the marginalized community. Such was the case with Jewish Canadians, who set up charitable endeavours across the country to serve children who often met little welcome in mainstream child rescue settings. Winnipeg's Jewish orphanage offers a helpful example. Founded during World War I, it rejected pervasive anti-Semitism, demonstrated adult responsibility, and asserted the value of Jewish youngsters.[109] Children in their care benefited from the home's kindergarten, Boy Scout and Girl Guide groups, Hebrew school, and choir. Its girls and boys may well have agreed with those of the New York Orphan Asylum that they were the "luckiest orphans."[110]

Many African-Canadian communities also endeavoured to generate assistance to distressed families that reflected "their own ideas regarding class, culture, gender roles, family ties, work ethic, and diasporic connections."[111] Much like other Canadians, their child welfare efforts often began with churches. The residents of Buxton, Ontario, typically founded Sunday schools and church-based children's libraries.[112] Some Canadian initiatives were also non-denominational, associated with fraternal groups and women's societies. Such was the case with the provision of food and shelter to needy households by Montreal's Coloured Women's Club of Montreal in the early 20th century.[113] As discussed earlier in this chapter, women from African Nova Scotian communities and within the AUBA played a similarly active role in support of the Home.

Efforts to offer alternatives to mainstream child welfare initiatives could assert much the same respectability as was reflected in the ideals of homemaking women and breadwinning men championed by white elites. Black churches could endorse a "separate spheres ideology" for women and men. Claims to prevailing gender conventions helped African Canadian women in Atlantic Canada, as elsewhere, in confronting "a hostile world."[114] Their male counterparts, such as James Ross Kinney, likewise invoked the ideal of responsible manhood to counter demeaning depictions of Black masculinity.[115] Indeed, this was true of many of the leading African Nova Scotian men who

were key to the founding and development of the Home as they aligned themselves with similarly situated elites from the white community to ensure necessary social, political, and monetary capital for the enterprise of the Home. Such strategies made perfect sense as disadvantaged communities scrambled to generate support for their own precious children. Many parents and children, as a study of Pittsburgh's Home for Colored Children has documented, "continually negotiated and cooperated with orphanage managers, who also had to bargain with progressive reformers, staff members, and the broader community over the future of their organizations."[116]

Seeing such resistance as core to the story of the Home is made more complex by the fact that the Home was run and staffed by those from the African Nova Scotian community. As Part 1 of this chapter discussed at length, this fact does not mean that there was no racism, and, thus, no cause of resistance at the heart of the story of the Home. It does mean that the picture of resistance cannot be seen if painted in black-and-white terms. It requires nuance to see and appreciate its expression throughout the story of the Home. Resistance is very evident though, as detailed in Chapter 3, not least in the debates over the initial vision for the Home, Board membership in the 1970s, the role of the Home (including its name) from the late 60s onward, and the significant tensions regarding fundraising efforts, including who should be asked to give.

It is true that marginalized and disadvantaged communities often looked to mainstream models of child caring alternatives to be strategic in gaining support for such efforts. However, it is also true that, owing to the histories of some marginalized communities, they turned to such models because they did not have access to other alternatives rooted in their histories and cultures. Unfortunately, little is known about alternate traditions of responsible adult behaviour and child rearing. While studies of Indigenous peoples identify older practices of care, sometimes stemming from pre-contact times, that can be mobilized to assist in modern child rearing, little of such scholarship exists on Canada's Black communities. In part, this speaks to the significant losses resulting from the transportation of peoples as part of the slave trade, or subsequently through forced migration because of racism that denied the necessities of life. That being said, it seems very likely that African Canadians also sought inspiration in traditions originating within their own histories and perhaps predating slavery. Indeed, this seems to be reflected in the name for the childcare entity that now resides on the former Home property, Akoma Family Centre, as it claims to offer an Africentric program.

The Home was not alone in the problems it faced in its efforts to resist prejudice and racism through the establishment and maintenance of the Home. Other disadvantaged communities' efforts to counter mainstream prejudice were not immune to problems either. Class, as well as different origins associated with Germany, Britain, or Eastern Europe, for example, divided Canadian Jews. In Montreal, "wealthy 'anglicized' Jews" could condescend to newcomers in much the same way as mainstream child rescuers did to the poor or the negatively racialized.[117] In early 20th century, Saint John, New Brunswick's established and generally anglophile Jewish

residents readily regarded Russo-Lithuanian newcomers as suspect. Comparable prejudices among historic and long-standing African Nova Scotians and relative newcomers presented tensions within the Home and in the considerations for its future directions. There were also significant tensions within the historic African Nova Scotian community regarding the vision, purposes, and directions of the Home at key moments throughout its history, as evident in Chapter 3. This can be seen in the different levels of engagement and re-engagement of the AUBA throughout the history of the Home, as well as the involvement of other progressive movements within the community, including the Black United Front in the mid-to-late 70s and early 80s. Such tensions were, in part, reflective of systemic racism and different strategies to dealing or responding to it.

The nature of community engagement within the history of the Home illustrates these tensions and differences within the African Nova Scotian community and the role of the white establishment. In particular, the assumption by the white establishment that there was a consensus within the Black community on such issues, and that those they collaborated with represented the most important segments of the "defacto" Black leadership. However, there is a strong pattern reflected throughout the history of the Home of the white establishment's comfort with those in the African Nova Scotian community who saw accommodation, integration, gradualism, or incremental inclusion as the path for equitable, harmonious racial relations. This approach was evident in the very idea of the Home as a separate institution aimed at racial uplift within existing social structures and norms. It supported common ground for collaboration between those African Nova Scotian leaders (largely connected to the AUBA) oriented to such a theory of change. Tensions then arose when others within the African Nova Scotian community sought to disrupt the status quo, including existing power relations with the white establishment as essential to change. Such tensions then reflected less of a division in the community regarding the nature of the issue of change needed than different strategies. However, this is viewed as a problem within the Black community by those within the white establishment because it diverges from their belief in consensus within the Black community. The diversity of views and responses within the African Nova Scotian community was evident throughout the history of the Home. The reaction of the Government to these differences and related tensions was evident at key points in the history of the Home, including in the Government's reaction to the community's response to revelations about abuse in the Home.

G. Silencing of Survivors' Voice

This shame was not only felt by those in the African Nova Scotian community about the situations and circumstances that made the Home necessary. That shame was experienced by the residents of the Home. Many former residents have shared that they felt the stigma of being a "home child" as children and into adulthood. This shame led to silence about their life and experiences in the Home. Many former residents report feeling unable to talk about their experience as children because they

lacked the opportunity (seldom receiving visits from family or social workers), feared they would not be believed, or were warned by staff not to speak about things that happened in the Home.

Unfortunately, this was not an uncommon experience. Children's voices (and indeed that of their parents) were commonly ignored or disbelieved while they were in institutions. The silence was often maintained long after children left care because many survivors wished to forget the stigma and the pain associated with their family problems and their entry into children's homes. Silence and ignorance were fostered by the fact that many institutions housed numerous youngsters for relatively short spells. Such especially transient girls and boys have been particularly likely to be lost sight of and, indeed, may have only the vaguest, if any, memories of interruptions of life with parents and families. This was true for some residents of the Home. Although many, particularly those who lived at the old Home, spent longer periods of time at the Home, their voices and experiences are all but absent in the records of the institution. Their files generally contain information (sometimes very sparse) relevant to the institution, not to the child. Evidence about the experience of children in institutions is, thus, inevitably incomplete. Fully understanding the history and legacy of the Home requires hearing these voices and experiences as told by the now-grown children who lived at the Home.

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When child welfare authorities justified their own labours, they regularly used pictures of their charges, sometimes in "before-and-after" poses. This "silent talk" of young bodies asserted a powerful narrative of rescue and progress that persists to the present day. In place of the voice and experiences of the children at the Home, we also found images contrived or selected to appeal to the audience to gain support for the continued work of the Home. There is some painful irony for many former residents that the iconic image of the vision of the Home for many is the singing residents on the annual telethons, while the residents recall being clear about the expectation that they should not go off the script for their performance. Former residents have also shared that the status of the Home in the community and the pride taken in its good works made it hard to speak in case it sounded ungrateful.

This silencing is what prompted many former residents to come forward and speak about their experiences in the Home. Indeed, it was as the institution reflected on its history, telling the story of the Home in the book *Share & Care: the Story of the Nova Scotia Home for Colored Children*, and then seeking heritage status to honour the importance of the Home to the African Nova Scotian community, that former residents found their voices to say their experiences were not represented in the institution's account of its own history.

Many former residents' stories are a complex blend of abuse and pain alongside expressions of care and kindness and small moments of joy. Indeed, several former residents of the Home have credited the stark contrast of these moments of care and kindness in the midst of neglect and abuse for showing them the profound difference between right and wrong and building their moral commitments.

In speaking out, former residents found a common voice to speak about their harmful experiences. But all residents did not tell the same story. Some former residents expressed relief and gratitude for escaping the disintegration, despair, and tyranny of original families and for finding accommodation, education, adult caregivers, and opportunity through the Home. Like some fostering and adoption programs, some orphanages offered second chances and better outcomes than birth families. Charles Saunders' study of the early years of the NSHCC emphasizes this perspective.

Other survivors told a very different story. Their revelations of institutional abuse and neglect reflected uncertainty, bitterness, deep unhappiness, and enduring harm. Like damaged foster kids and adoptees and the casualties of failed birth families, such girls and boys rightly ask why authorities seemed so often indifferent and complicit in their pain. In effect, they want to know why they weren't treated as "precious" children by so many adults in their lives.

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Part 3: Responses to Institutional Abuse and Other Failures of Care

The story of the Nova Scotia Home for Colored Children is, ultimately, an instructive one about the failure of care and resulting harm and abuse. The Inquiry was mandated to examine the experiences of former residents within the NSHCC for what those might reveal about issues of institutional child abuse and its prevention and protection in future. Indeed, it was the demand from former residents for response to their experiences of harm and abuse within the Home that gave rise to this Inquiry. As Chapter 4 details, their journey to bring these harms to light and get a response from those responsible has been a long one involving significant political and legal actions. The failures of care they experienced were, in many ways, compounded by the failures to respond to their calls for justice either as children and young people living in the Home, or as adults reporting their experiences while residents. As former residents came forward to share their experiences, the complexity of the story became clear. What they shared were not simple stories of harm and abuse visited upon them by predators or individuals set about violence or violation. It is undeniable that this was an element of the abuse that occurred within the Home, yet, if this was the only focus of justice efforts, much of the harm and abuse

experienced by former residents would be missed. Such a narrow view of the history of neglect, harm, and abuse at the Home would ignore significant factors related to the contexts, causes, and circumstances that created the conditions in which such abuse was able to happen.

The vision of justice offered by former residents as they gathered to support one another required a response that could deal with the complex nature of the harms. It became clear that the experience of harm and abuse had to be understood in the context of the broader structure of the care system and the context of systemic racism that had a structural influence and impact.

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The Home not only serves as an example of the profound impacts of systemic racism, but also of institutional abuse in ways that are not unique to racialized communities. In 2000, the Law Commission of Canada concluded, as part of their examination of redress for institutional child abuse, "In Canada, our history of institutional child abuse has been a tragedy of enormous proportion. It is not, sadly, only an issue of the past. Understanding the nature and settings of historical child abuse and what we can do to provide appropriate redress for survivors is a priority, both because justice demands that we act, and because it helps us to see how we, as a society, can take steps to root out child abuse of all types today."[118] Almost two decades on, as we write this report, we are driven by the same belief and ambition in this Inquiry. It is also clear that the nature of responses to failures of care have significant influence on the structure and approach of the care system generally. It is, therefore, very important to examine the response to harm and abuse at the Home for what it has to teach about responding more broadly to institutional failures of care and for the approach to care generally. While this issue is not limited to racialized populations, it is important to acknowledge that these failures disproportionately affect those who are already marginalized and disadvantaged because the mechanisms and nature of abuse are often tied to racism or amplify existing vulnerabilities.

While this issue is not limited to racialized populations, it is important to acknowledge that these failures disproportionately affect those who are already marginalized and disadvantaged because the mechanisms and nature of abuse are often tied to racism or amplify existing vulnerabilities.

The Law Commission explains the unique circumstances of institutional abuse and the corresponding collective responsibility for abuses:

> When children are placed in institutions, they enter a different world; for those who are not part of that world, it is often a case of "out of sight, out of mind". Because society does not see these children, it needs to ensure that others see

them. Effective external and independent oversight can serve as a check on those who would abuse children. Too often, however, there was little oversight of any kind brought to bear on the daily activities, the level of discipline and the quality of care that children received. In some cases, an institution or its sponsor responded to documented evidence of abuse by simply transferring or dismissing the employee, without seeking the involvement of police, offering counselling to the children or even seriously reviewing its hiring and supervisory policies.

Once society places children in institutions, it seems largely content to assume that this is the end of its direct responsibility to look after them. But brick and mortar institutions, or anywhere else we choose to place children "for their own good", are not solutions in and of themselves. They can be solutions when they provide services and care that meet the needs of children; when they do not, they become part of the problem. Children, all children, require ongoing care, attention, respect and love. Where parental responsibility is replaced by institutional care, external vigilance is essential. This is especially true when the parents themselves have proved neglectful or inadequate, because it means that their children will usually lack effective natural advocates outside the institution. Society's responsibility for vigilance through oversight and advocacy operates whatever the nature of the institution and whatever the reason for the placement.[119]

Part 2 of this chapter revealed the significant factors and issues within the care system that created the conditions for harm and abuse at the Home. These included:

- siloed approach and fragmentation across the systems meant to ensure care within child welfare and at the Home that restricted system resources and capacity to meet the needs of children
- focus on needs and priorities of systems and the organizational needs of services rather than on the needs of children
- inadequacy of funding, training, and oversight at the levels of the institution and the child welfare system
- the "total" nature of institutions resulting in isolation and significant exercise of power over the lives of children in care of the institution
- inequality and vulnerability of marginalized communities resulting from systemic racism

While the focus of the Inquiry has been on institutional abuse, given our starting point in the experience of former residents of the Home, it has become clear through our process that institutional abuse is often the consequence of, and closely connected to, broader failures of care

systems. In particular, the ways in which systems and institutions are not designed around the needs of human beings. As we consider the history of the response to abuse in the Home, we are mindful that there are insights for the ways in which we respond not only to abuse but to the range of failures of the care system.

The Law Commission grounded its comprehensive and helpful consideration of institutional child abuse in Canada with a powerful reminder that: "Children do not decide to live in institutions. It is, rather, their parents, legal guardians, the courts and others with legal control over them who are responsible for sending children to residential institutions."[120] The fact that society decided to care for children in this way, and that so many suffered harm and abuse as a result, creates a significant collective responsibility to respond to this abuse.

The Law Commission grounded its comprehensive and helpful consideration of institutional child abuse in Canada with a powerful reminder that: "Children do not decide to live in institutions. It is, rather, their parents, legal guardians, the courts and others with legal control over them who are responsible for sending children to residential institutions." The fact that society decided to care for children in this way, and that so many suffered harm and abuse as a result, creates a significant collective responsibility to respond to this abuse.

It is important to pay attention to the conditions and circumstances in which harm and abuse were commonplace. As was the case for our consideration of racism in Part 1 of this chapter, it is not possible to understand the nature of institutional abuse if we approach the problem simply through an individual lens. It is significant that the abuse and harm happened in and through institutions. Of course, there were individuals who caused harm — intentionally and unintentionally — some out of a belief their actions were a necessary part of doing their job, and others who clearly preyed on children and young people to serve their own ends. Attention to the systemic and institutional features of abuse in the Home is not intended to excuse individuals from their responsibility for their past actions and, importantly, their responsibility to respond in meaningful ways for the future. It is important, however, that we focus on the systemic and institutional nature of the abuse, and the response to abuse, if we are to be able to explain how the abuse happened and the failures to respond in helpful ways. Such an explanation requires attention to the system and structures of child welfare, the Home, and the justice system through which help was sought to address abuse. This points to the significant collective responsibility we all share at the institutional, system, and societal levels for what happened to former residents at the Home.

Attention to the systemic and institutional features of abuse in the Home is not intended to excuse individuals from their responsibility for their past actions and, importantly, their responsibility to respond in meaningful ways for the future.

Just as the efforts to understand the harm and abuse experienced by former residents cannot be focused only at the individual level, it is also true that responding to such harms requires a

more comprehensive and systemic approach. When the Federal Minister of Justice asked the Law Commission of Canada to comment on which processes may best respond to the needs of survivors of institutional child abuse, they concluded:

> This task is not […] just about how to compensate people for the wrongs of the past, and it is not just about law. It is about understanding how our society views its children and how it allows them to be treated. … It is about facing up to some unpleasant truths, not only about abuse of power and the pedophiles in our midst, but about how the people who are charged with the care and protection of children can fail, and in some cases deliberately refuse, to protect them from those in whose custody they are placed. It is about our faith in certain institutions, and how misplaced that faith can sometimes be. It is about wrenching families and communities apart through misplaced notions of cultural superiority. Above all, it is about our own failure, even today, to fully acknowledge the harm that was done and to take adequate steps to address that harm.[121]

This understanding has shaped the structure and approach of this Inquiry. The response when the stories of former residents' experiences within the Home came to light was a very instructive part of the history of the Home. It revealed a failure to understand the contexts, causes, and circumstances of abuse in favour of pointing the finger at the few bad actors and/or to outright denying the responsibility of the institution and the systems involved.

This chapter is focused primarily on the responses to institutional abuse as a failure of the care system, and, thus, on the official institutional and system responses.

This chapter is focused primarily on the responses to institutional abuse as a failure of the care system, and, thus, on the official institutional and system responses. However, it is important to acknowledge that, in the case of the Home, the response of the broader African Nova Scotian community to abuse claims was a significant part of the story of the Home. The close association of the Home with the African Nova Scotian community — at least in terms of its vision, mandate, and outward presentation — meant that the institution's own responses to reports of harms and abuses (at the time or later) had an added dimension. It is not possible to abstract the institution's response from the larger community. This is particularly true because of the depth and breadth of the involvement of community members in the governance and operations of the Home throughout its history (see Appendix B for list of board members over time), but particularly in the later years when the former residents' stories of harm and abuse came to light. It is, of course, also not possible to abstract the Home's response to abuse from the adversarial justice system through which many of the claims were made. Just as this context shaped system responses, so too did it influence and constrain the response of the institution and the community members associated with it.

As we will discuss further in this chapter, the adversarial approach, focused on blame and liability, profoundly shaped the response to abuse by the Government, the Home, the African Nova Scotian community, and the wider Nova Scotian community. It is also important to understand that the situation was made more complicated and difficult by the reality of systemic racism in Nova Scotia. As discussed in Part 1 of this chapter, systemic racism made it unsafe for the African Nova Scotian community to reckon publicly with the failures and harms of the Home for fear it would feed racist stereotypes and undermine current efforts to garner support for the community care projects. The disbelief expressed by some community leaders caused many former residents significant pain and distress. It was very difficult for many to come forward and break their silence only to be told they were lying, or to hear whispers in the community casting doubt on their stories. Through the Inquiry process, we have gained a deeper understanding of the response of disbelief by some in community. Former residents had the sense that information about what was happening at the Home was widespread in the community. They thought this because people shared stories that the Home was used as a threat for bad behaviour when they were children. People reported being told as children they "better behave or they would be sent to the Home." The Home was, indeed, widely known throughout the province's African Nova Scotian communities.

It was often a source of shame for those who required such care for their children at the Home. Coupled with the stigma residents experienced in being "Home kids" when they were in the community, this established a culture of silence about what was happening in the Home. This silence was a stark contrast to the profile of the Home as an institution with a place of pride as an achievement for the African Nova Scotian community generally, the AUBA specifically, and certain high-profile leaders. Even in the governance of the institution, we notice a disconnect between the larger vision and mission of the Home and the day-to-day operations of care giving and experience of the children. Attention to residents' experiences was all but absent from much of the records available from the Board and correspondence for a significant period of the institution's history. When attention to their experience was paid, it was as a problem to be handled, as in the many reports and reviews starting in the late 1940s that identified concerns with the experience of the children. Across the years, such reports generated responses mostly concerned with the perception of the institution and protecting its larger mission.

Against this backdrop, the disbelief expressed by community about the revelations of the experiences of former residents is more complicated than it might first appear. There are, of course, some who reject these claims to protect themselves, or those they care about, out of concern they may be implicated. But for the broader community, the disbelief was genuine. It seems to have been less a rejection of the truth of what former residents said as an inability to believe these truths. For many in the community, while they would not wish to need the Home themselves, they did view it proudly as a place of refuge — a place that would help, would care. Indeed, many from the community who participated in the Restorative Inquiry processes have

responded with grief and expressed how difficult and painful it is to realize that this was happening in the Home and they did not see it. This is especially so since the institution was so "visible" to the African Nova Scotian community. Even though many never went to the Home itself, it lived in the moral imagination and pride of the community. Many spoke of children they knew who went there, some clergy recall sending children to the Home, or others sent children on the advice of church and other community leaders. Others supported the Home, raised money or listened to/watched the annual broadcast. How could they not have known? This is a painful question for the community to confront, especially about an institution meant to care for their children in the name of, and with the support of, the community. It was hard to believe. It was potentially harmful to the community to believe. And, it was difficult to talk about. In part, it was hard to talk about because there were very few places to have the honest and difficult conversations needed to deal with something so painful and to respond to those who are hurting.

Members of the community have also shared that, even for those who believed, it would have gone against the culture of the African Nova Scotian community to air shameful or difficult things in public. This protective culture, at least in part, reflects the history of the isolation of communities that had to take care of one another in an often-hostile racist society. This contributed to the silence in community. A silence that was deafening for the former residents when they sought a response for their harms. It caused some to try to protect the community from harm or damage from the revelations. It was this context that made the support from community for a public inquiry at a meeting of Ujamma, chaired by the late Rocky Jones, such a significant and important response.

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One of the significant concerns motivating a restorative approach to this Inquiry was ensuring the process would begin the honest and difficult conversations within community about what happened at the Home and what matters about it for the community.

The initial community response, or non-response, also had a significant impact on the Government response to the claims of institutional abuse. As discussed in Chapter 4, it created the impression that this was really a matter within the African Nova Scotian community. Framed this way, the Government could justify its own inaction and step back from its responsibility to respond to the institutional abuse claims. Indeed, in the face of denials from leaders within the African Nova Scotian community, Government sought neutral ground. In the process, Government allowed a story of the Home that ignored the systemic racism and, thus, avoided the Government's responsibility. Again, this was influenced by the adversarial character of justice responses and its propensity to divide issues into two "sides." The Government was keen to stand on the side of the African Nova Scotian community if a choice was required. Through the lens of an adversarial blame and liability focused frame for justice, the situation appeared as a choice between the

community and former residents. We have come to learn through this Inquiry process that the story is not nearly this simple, and that response to institutional abuse requires processes able to deal with complicated stories.

The experience of the former residents in their journey to light has revealed that the approach to justice did not support the nuance and complexity needed to deal with what happened in the Home. The processes available through the justice system and its alternatives were not structured to understand or deal with the nature of institutional abuse resulting from the failures of care at the Home.

Response to abuse is a central and important part of the story of the Home and the experiences of its residents. The adversarial individualized approach to justice structured the response to residents while they were living in the Home and when they came forward later as adults seeking justice for what happened to them as children.

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It is neither the mandate of this Inquiry nor the objective of this chapter to undertake a full examination of the possible responses to institutional abuse and the workings of the Canadian justice system. Rather, it has been our aim throughout the Inquiry to understand the impact of the systems, structures, and processes, and their approach in responding to the harms and abuses experienced by residents of the Home. This has formed an important part of the work of the Inquiry because, as discussed in chapters 1 and 2, part of our mandate has been to consider and model "a different way" to respond justly. At our core, the design and work of the Restorative Inquiry reflects the vision of former residents for what they needed and wanted in response to their harmful experiences in the Home. It is important to recognize that former residents have not simply been the subject matter of the Inquiry, they have been active and effective agents of ensuring a just response to their abuse. The Law Commission notes that this is not an uncommon response of those who have been harmed.

> Many adult survivors who shared with the Law Commission their views about how best to respond to the harm they suffered underscored the importance of ensuring that new generations of children are spared from abuse – whether committed in an institution or elsewhere. … Some survivors have translated their concerns into specific actions, such as helping to increase public knowledge and promoting prevention. … Advocating and sometimes becoming actively engaged in developing strategies and measures to prevent institutional child abuse are important to many survivors. Helping to educate others to ensure that better preventive practices are put in place may even contribute to an individual's personal healing. Judith Herman, a doctor who has written about trauma and

recovery, observes that survivors of a personal trauma often become involved in social action and make it their "mission" to raise public awareness.[122]

While the former residents' perspective may not be uncommon, in this case their vision has made a remarkable difference to the nature and impact of the response. Their vision for what justice looks and feels like is, in part, a reaction to the response, or lack of response, they experienced as children and adults seeking help. The former residents, through their class counsel and through VOICES (Victims of Institutional Child Exploitation Society), advocated for and achieved a restorative approach to responding to the harms and abuses they experienced at the Home. The restorative response to the abuse at the Home involved both a restorative approach to determine and distribute compensation as part of the settlement of the class action claim and the establishment of this Inquiry.

As discussed in Chapters 1 and 2, the former residents sought a restorative approach for several reasons. It is helpful, as we consider the nature of the response to institutional abuse, to be reminded of the vision of former residents. This vision was informed by their previous efforts to seek justice through various systems/processes. Before and during the Restorative Inquiry, we have come to understand former residents desire for:

- A process that reflected their idea of justice as being about more than naming, blaming, and shaming. A process that would, instead, seek to understand what happened to them, why it happened, and what matters about what happened for the future. One that would encourage and support those with responsibilities for what happened to learn from the past and commit to making changes in the future. Former residents wanted what happened to them to make a real difference for the future and a process that would contribute to that future.
- A process that did not abstract their harms and abuses from the larger context of systemic racism that shaped their experiences.
- A process they could participate in, and that was flexible enough to allow for their meaningful participation in ways that felt appropriate to each resident. They did not want to be treated like the subjects of inquiry or of assessment for compensation.
- A process that would "do no further harm" — an approach that valued first voice and experience and was committed to former residents' well-being within the process.
- A process that could consider the *why* — the contexts, causes, and circumstances — that led to the harm and abuse they experienced. They sought an approach capable of dealing with the complex relationships and issues involved. One that would appreciate the connection between the experiences at individual and systemic levels.

- A process in which those individuals, institutions, and systems with responsibilities to ensure such things do not happen again could be actively engaged in finding solutions rather than defending themselves from being blamed as part of the problem by:
- bringing parties together to begin to work differently in real time so that the process itself would build a foundation for institutional and system change.
- supporting learning and understanding needed to appreciate and tackle complex issues of culture and bring about systemic change.
- building capacity and establishing relationships within Government and community necessary to support a better way forward in future.

The experience of the Restorative Inquiry in trying to make good on this vision of a different approach to justice has shed significant light on our ingrained ways of thinking about and doing justice.

The experience of the Restorative Inquiry in trying to make good on this vision of a different approach to justice has shed significant light on our ingrained ways of thinking about and doing justice.

There is a significant risk of oversimplification in setting out the general frame and approach of existing justice processes in response to abuse. It is our intention in this chapter to consider the contexts and circumstances that contributed to the responses or lack of responses to the harm and abuse experienced by residents of the Home. The discussion is, therefore, necessarily of a more general nature and focused on understanding this aspect of the story of the Home, the experiences of residents at the Home, and their journey to light. We have not attempted to re-do the considerable existing work examining justice processes generally and specifically considering the response to institutional child abuse claims. Our work has been informed by this work, including, notably, the Law Commission of Canada's detailed study of possible responses in their 2000 report *Restoring Dignity: Responding to Child Abuse in Canadian Institutions*.[123] It was written specifically in the context of the challenge posed by revelations about the systemic abuse of Indigenous children in residential schools. Its analysis, however, has broad implications and applications for dealing with the issue of institutional child abuse. In Nova Scotia, the 2002 report by Mr. Justice Kaufman, *Searching for Justice: An Independent Review of Nova Scotia's Response to Reports of Institutional Abuse* has also been informative. The review was undertaken to examine the Government's response to allegations of abuse at the Shelburne School for Boys and other Provincial institutions. The review was specifically tasked to examine the alternative dispute resolution and compensation process employed by the Nova Scotia Government at that time.

We are also aware that there have been significant changes and developments in terms of how various systems and processes respond to contemporaneous reports of child abuse in institutions and generally. Through the Inquiry, we have worked with various parties to consider the example and experience of the response to the Home and what matters about this for how

we need to respond in the future. These discussions have supported parties to understand what has changed and what still needs to change in terms of our response to institutional abuse and failures of the care system. The insights gained are shared in chapters 6 and 7.

In considering the response to the harms and abuses at the Home, we paid attention to both the experience of residents while at the Home and the experience of former residents when they came forward as adults to share their experiences at the Home. There are a number of systems and processes that were part of the response to harms and abuses at the Home including internal system review and complaint processes (within Government departments), the criminal justice system, the civil justice system, and a public inquiry.

We will consider the role of each in the response to the harms and abuses at the Home, but first it is helpful to consider what they share in common. They all reflect a mainstream approach to justice. Such an approach understands justice that is i) adversarial, ii) individualized, iii) focused on breaking of law/rules, iv) backward focused, and v) concerned with blame and liability.

A. Adversarial

Responses to institutional abuse are generally adversarial in nature. At the most basic level, this means they treat problems as conflicts and assume that there are two opposing sides. The process is then designed to ensure a fair "fight" between the two sides and to decide a "winner."[124] There are additional rules to address potential power imbalances, particularly when the state is involved as one of the "sides," as in criminal justice. Rights seek to shield the accused subject to the power of the state from potential abuses of power or process. Adversarial processes are premised on the idea that the sides to a conflict are adverse in their interests — opposed to one another. It is the responsibility of each side to bring evidence to prove their case or refute the other side's claims. Adversarial processes require judges to enforce the rules of the process and determine the outcome. Adversarial systems are based on the idea that truth is best determined through a competitive process between the parties.

I. Adversarial Processes and Trauma

> The trauma of child abuse often has profound consequences for survivors. The nature and seriousness of these consequences depend on many factors, including the type of abuse; the age when it began; its duration; the relationship of the perpetrator to the child; the age when the abuse was disclosed; the reaction of others to the disclosure; etc. Coming to understand the connections between one's experience of abuse as a child and one's behaviour as an adult can be a lengthy and complex process.[125]

There is significant evidence that adversarial processes can have a retraumatizing effect on victims. As Melanie Randall and Lori Haskell note:

> The relevance and importance of taking a trauma-informed approach to those who are victims of crimes and harmed by wrongdoing is perhaps most evident and easy to understand. Indeed, one of the important and persistent critiques of the criminal justice system, most sharply acute and well documented in cases of sexual and domestic violence, is the revictimization of victim-witnesses, a process which is sometimes also aptly described as retraumatization.[126]

Haskell, in her work on first stage trauma, says that victims often are not able to explain their own psychological responses and coping.[127] Randall and Haskell explain further:

> They may not recognize the role of abuse-related trauma in the development of some of their own severe responses or ways of managing. What might appear as "inconsistencies" in the way a victim reacts or tells her story in a service context or a legal proceeding is actually very often a typical, predictable, and normal way of responding to life threatening events and coping with and remembering traumatic experiences.
>
> Understanding these complexities of victim responses to traumatization, which are often counterintuitive to popular beliefs about how "real" victims should behave, is one of the fundamental challenges the crimes of child sexual abuse, sexual assault, and domestic violence pose for the criminal justice system.[128]

The trauma of child abuse often has profound consequences for survivors. The nature and seriousness of these consequences depend on many factors, including the type of abuse; the age when it began; its duration; the relationship of the perpetrator to the child; the age when the abuse was disclosed; the reaction of others to the disclosure; etc. Coming to understand the connections between one's experience of abuse as a child and one's behaviour as an adult can be a lengthy and complex process.

Adversarial processes are, thus, particularly challenging in response to institutional abuse. While not all victims of abuse will experience trauma (depending on their resilience), it is a common and predictable response particularly when abuse is experienced as a child. Given the nature of the claims, an approach that is known to exacerbate the experience of trauma creates a particularly unfair set of conditions for competition even by the standards of an adversarial process. The impact is not limited to victims serving as witnesses within the criminal justice system. The impact of an adversarial process is felt equally in the context of the civil justice system (and, for that matter, in other processes, including institutional complaint processes and traditional public inquiries). Insofar as such processes pit victims/claimants as adversaries against those who were party to their abuse, it reinforces their experience of abuse. Randall and Haskell explain this is because:

> The loss of belief in a just world and an inability to enjoy connectedness to others are among the first and possibly the most deeply harmful legacies of traumatic experience. Put differently, the loss of trust and hope associated with trauma means that traumatized people are often unable to create or sustain deep connections to others and, intimately related to this, have difficulty believing that justice and fairness are possible in life and in relationships. Clearly the experience of being violated, neglected, or abused by people who are entrusted to caring for and keeping a child safe is profoundly disorienting, can make relationships seem insecure and unpredictable, and a sense of fairness virtually impossible. The same losses in hope and trust apply to children living in other traumatizing circumstances such as situations of war, political conflicts, or institutional abuse. This loss of hope and trust is a crucial and often underappreciated harmful effect of a traumatic life experience or series of experiences. [129]

It is an effect that is likely to be increased when, as it was the care for the former residents, the parties against you are the very institution and Government systems that were responsible for your care — and for the abuses that occurred. Such processes, by design, require that claims and evidence be tested in ways that are likely to reinforce a lack of trust and safety in those institutions. The adversarial process can be retraumatizing or increase trauma in a number of ways across complaint processes, criminal justice, civil proceedings, and traditional public inquiries for example:

- In the preparation of witnesses, discovery, testimony, or cross-examination

  - witnesses or complainants are often required to recount their experiences several times, and under stress, to ensure consistency in their account, which is sometimes particularly difficult for those suffering trauma

  - witnesses are required to share their experience within restrictive and controlled processes through question/answer and often without freedom to tell the story in the way that is most comfortable, or to include facts that matter to the witness

- Victims (as witnesses or even as complainants) often have little control or a role in legal proceeding. It often seems to happen to them or around them in ways that can increase the sense of helplessness and vulnerability experienced by individuals suffering trauma.

- Witnesses are often told not to talk to one another or will have their claims discounted if there is too much commonality across a claimant group (this is particularly an issue in claims related to institutional abuse with multiple victims). As the Law Commission explained:

> Those who will testify in a criminal proceeding are warned by the police not to discuss, among themselves, the events that are the subject of the trial. This warning is based on the view that victims who have had discussions might coordinate their evidence in such a way as to strengthen their case. While not a formal rule of evidence, this precautionary practice has almost taken on the character of a prohibition that begins when the charge is laid. The practice of requiring witnesses not to discuss the trial issues deserves to be reconsidered in the context of historical institutional child abuse. It may mean, both unfairly and unrealistically, that friends, former classmates and even siblings cannot discuss with each other some of the most significant shaping events of their lives – possibly for a period of years. This imposes a particular hardship on survivors, who may be coming together and revealing their experiences for the first time since they were children. Mutual support and sharing are vital coping mechanisms for confronting a troubled or traumatic past.[130]

II. Adversarial Processes and Finding Truth

Adversarial processes seek truth on the battlefield between opposing parties. The theory is that competition is the best way to find truth. This model is better suited to determinations or binary truth: yes/no, right/wrong, and win/lose. It incentivizes polarized claims for fear of "giving" anything to the other side that might result in a weakened position. Admissions, even when warranted, are seldom encouraged or rewarded. It does not deal well with nuance and complexity. As we explained earlier in this chapter, the case of the Home is anything but simple and requires a significant nuanced response. The Home case is not unique in this regard.

Judge of the South African Constitutional Court Albi Sachs, in reflecting on his experience of the South African Truth and Reconciliation Commission (TRC) following apartheid, said:

> The problem I had was: why does so little truth come out in a court of law, when so much emerged from the TRC? It poured out in huge streams, with overwhelming and convincing force. Many of the details and some of the assessments might have been challengeable, but the basic sweep was incontrovertible. One of its achievements was to eliminate denial. Not even the most ardent defenders of the old order could deny the evil that had been done in its name. Court records on the other hand, are notoriously arid as sources of information. The social processes and cultural and institutional systems responsible for the violations remain uninvestigated.
>
> The answer to this puzzle must lie in the differing objectives of the respective enquires. Courts are concerned with accountability in a narrow individualized

> sense. They deal essentially with punishment and compensation. Due process of law relates not so much to truth, as to proof. Before you send someone to jail there has to be proof of responsibility for the wicked details charged. When the penalties and consequences are grave and personalized, you need this constrained mode of proceeding. The nation wishing to understand and deal with its past, however, is asking much larger questions. How could it happen, what was it like for all concerned, how can you spot the warning signs, and how can it be prevented from occurring again? If you are dealing with large episodes, the main concern is not punishment or compensation after due process of law, but to achieve an understanding and acknowledgement by society of what happened so the healing process can really start.[131]

While Judge Sachs is speaking of a process that dealt with historical harms on a national scale, it is no less relevant when considering the response to historical institutional abuse. It is particularly relevant where the abuse has happened in the context of systemic racism, as it did in the case of the Home. But more generally, in cases of institutional abuse or systemic failures, the truth that is sought must be concerned not only with the individual case but with its implications for the system. This raises, as it did for Judge Sachs, a very different set of questions, and requires a process adept at finding complex, relational truth.

Processes that are focused on finding *the* truth, as in the idea of "proof" Judge Sachs speaks of, can actually impede the sort of justice envisioned by former residents. Differing perspectives and experiences make the idea of one single identifiable truth on any matter problematic. Further, the search for and determination of *the* truth presents either/or choices that are more likely to be fractious and misleading than enlightening.[132] Understanding and responding to the nature and impact of the harms and abuses at the Nova Scotia Home for Colored Children requires an approach to truth that is able to reflect the complexities resulting from interconnectedness and interdependence at interpersonal, institutional, and systemic levels. It requires a relational notion of truth. This should not be confused with the idea that truth is relative. Relational truth is nuanced and complex.

Understanding and responding to the nature and impact of the harms and abuses at the Nova Scotia Home for Colored Children requires an approach to truth that is able to reflect the complexities resulting from interconnectedness and interdependence at interpersonal, institutional, and systemic levels.

The legal system, as one of the most familiar arbiters of truth, is called upon to make determinations with respect to guilt, culpability, or liability, and, in that context, must often strip away complexity and make a judgment about what parts of the truth matter to resolve a case.[133] Finding relational truth requires spaces and processes in which truths can be told and heard, and in which perspectives

can meet one another head-on to challenge, integrate, and illuminate the truth about what happened, why it happened, and its implications. Judge Sachs points to the success of the South African Commission in finding truth. The TRC recognized different kinds of truth: factual or forensic truth, personal and narrative truth, social truth, and healing and restorative truth.[134] Central to the TRC's work were social truth and healing and restorative truth. These understandings of truth reflect the relational nature of truth central to restorative justice. Social truth, as described by the TRC, references to the way in which truth is to be found. Social truth is that which emerges through dialogue and interaction with others. This is the kind of truth that the TRC says is required for healing or restoration. Healing and restorative truth is "the kind of truth that places facts and what they mean within the context of human relationships – both amongst citizens and between the state and its citizens."[135] The TRC saw that its role was to:

Finding relational truth requires spaces and processes in which truths can be told and heard, and in which perspectives can meet one another head-on to challenge, integrate, and illuminate the truth about what happened, why it happened, and its implications.

> …help establish a truth that would contribute to the reparation of the damage inflicted in the past and to the prevention of the recurrence of serious abuses in the future. It was not enough simply to determine what had happened.[136]

Likewise, in responding to historical institutional abuse in the context of systemic racism, it is not enough to simply determine what happened. Instead, we must seek the truth about why these things happened and further consider what happened in light of what matters about this for the future. The adversarial approach to responding is not well equipped to this work. Such truth cannot be found through a competitive process that fights over the "facts" of what happened. It requires a process in which different perspectives and understandings of the facts can be shared with a view to coming to an understanding of their significance for the future. This is more likely to be found through dialogue and narrative that allow for the complexity of human truths and create space to understand more than the facts of what happened, but also how and why these things happened.

This notion of relational truth and its importance to the work of responding to institutional abuse reveals another problem with the adversarial approach. Adversarial processes rely on the notion of "testing" claims by "testing" those who make those claims, as in the processes of interviewing as part of an investigation, discovering witnesses, and of cross-examining. We have already considered how these processes could be traumatizing or retraumatizing for victims/claimants. But it may also create conditions in which their truths cannot be heard or are not valued. Adversarial processes reinforce the idea that truth claims are certain, stable, consistent, and unshakable in the face of challenge. In fact, this is often not the nature of truth, particularly human truth that relies on memory.

The work of Dr. Sue Campbell has been helpful to our understanding on this point.[137] Dr. Campbell challenged the idea that memory — good remembering — is about accessing facts as if from an existing archive. Rather, she drew attention to the ways in which remembering is always a relational act that happens in the present as we seek to make sense of the past. In doing so, she did not make merely a factual claim about how memory works, but also a claim about how we ought to understand and approach the process of remembering. Adversarial "truth-finding" processes assume that truth is a fixed commodity to be discovered and evaluated. When truth appears to be unstable or subject to interpretation or when current understandings and experiences shape recollections or help make sense of what happened in the past, the reliability of the "truth" is questioned. However, if memory is necessarily always a process of remembering, of constructing a narrative of our past from the vantage point of our present self standing in relationship to our past, then we must revise our notion of what counts as "truth." As Dr. Campbell pointed out, a relational understanding of memory and, relatedly, truth is particularly important in dealing with traumatic harms.

> According to trauma survivors and those who work with trauma survivors, the narration of traumatic harm is often a necessary part of recovering from it. Narrating the harm can help the trauma victim to restore a sense of continuity with her past, to gain control over intrusive memories, and to regain a sense of subjectivity and some sense of self-integrity. To allow testimonial position to survivors of sexual violence is to help individual survivors recover from the harm of such violence.[138]

The idea of giving survivors "testimonial position" here is not referring to the way adversarial processes take testimony. What Campbell had in mind was placing survivors in a central position to narrate their experience — this requires a relational environment that ensures that the victim has power over the telling and access to understanding listeners. As the discussion of the experience of former residents in Chapter 4 illustrates, the adversarial character of mainstream justice processes sets rules around testimony in order to serve the process, not the needs of the witness. This can contribute to the harm experienced by victims as it did for the former residents of the Home. It is not only the tactics or treatment within the adversarial process that are harmful, but also the loss of control over one's own truth — the ability to remember in a way that can capture the truth of what happened, including not only the facts, but the meaning of these facts. What counts as truth, and the process in which it can be told, in the current adversarial processes are too narrow often to allow for victims' truth.

B. Individualized

Mainstream responses to abuse complaints are also characterized by an individualistic focus. They are generally designed to deal with individual cases of harm to individuals by individual

actors (whether people or entities). One of the impacts of this individual focus in criminal law is that the state generally takes the role of the injured party (and, given the adversarial nature of the processes, there is generally only one such party). This means that individual victims do not have a place at the table or as a central party in the process. Instead, they are called to be of service to the process as witnesses, when needed, to make out a case. In the civil system, this means that individual victims must bring their cases against the parties that have wronged them. It is now possible in Nova Scotia to bring a claim on behalf of a class of individuals as long as they share a similar position that can be represented by an individual plaintiff(s). The individual orientation of the system can also be seen in the focus on individual responsibility (this is true even when the "individual" responsible is an organization or institution).[139] Even in cases where there are several individuals or entities said to be responsible, cases are treated separately or responsibility is apportioned and ascribed accordingly to each party.

This aspect of the mainstream processes is particularly challenging in terms of responding to institutional abuse. The complexity of institutional abuse makes it challenging to address as a purely individual issue. It cannot be reduced to a problem caused by the actions of a few wicked individuals. Indeed, the problem "persists despite regulatory measures, interventions from enforcement and protection agencies, organisational policies and procedures."[140] It is often deeply rooted in systemic patterns of discrimination and inequality (including race, gender, and poverty), takes multiple forms, and is layered. The focus on individual responsibility misunderstands the relational nature of the situation and the harms at stake in institutional abuse cases, particularly one like the Home where it is embedded in systemic racism. This is not to say that individuals bare no responsibility for the harms and abuses that occurred at the Home. But understanding their individual responsibility requires attention to collective responsibility and its connection with the contexts, causes, and circumstances that often help explain (not excuse) individual actions. It is also problematic to focus on the harms through an individualistic lens because it fails to appreciate the nature of the harms. Understanding the impact and responding to harm and abuse requires knowing whether it was individualized or systemic. Finally, the individualized focus enables systems, institutions, and society more broadly to escape responsibility. If the response is focused on finding the individual to blame, it will not cast its gaze to the collective responsibility for what happened. This was evident in the response to civil claims in the Home as the individual parties (Government, children's aid societies, and the Home) all sought to point at one another to ascribe fault and liability. As we considered in Part 1 of this chapter, understanding systemic/structural racism as existing beyond individual actions requires a more complex notion of responsibility.

This is not to say that individuals bare no responsibility for the harms and abuses that occurred at the Home. But understanding their individual responsibility requires attention to collective responsibility and its connection with the contexts, causes, and circumstances that often help explain (not excuse) individual actions.

The individual focus of the criminal justice system also shaped the response of authorities (police, child welfare system, and the institution) both in their interactions with residents when they were children in the institution and after as they reported their experiences. In the very few incidents where there are records of responses to reports of abuse at the Home, the response was focused on identifying the individual to blame and exiting (or disciplining) them as a means of dealing with the problem. Seldom was there a wider consideration of the circumstances or conditions within the institution or the wider system. When former residents came forward with claims of abuse, the response of the Home reflected a similar focus on individuals: either the individual nature of the experience of those who came forward (and the denial that it was systemic) and/or the reducing claims, if true, to the acts of a few individuals. The individualized nature of the justice systems helps explain this framing of the claims.

It was more difficult to ignore the systemic nature of the issues when more residents came forward in the class claim. The significant lengths that were taken to prevent the recognition of a class claim in the case of the Home is interesting in this respect. Even once the case was recognized as a class action for the purpose of settlement, the powerful influence of the individualistic approach was evident in how the harms were approached as individual claims (simply multiplied by many individuals). Responsibility was also attributed to individual actors or institutions. It was difficult, within the frame of processes designed to deal with these sorts of claims, to acknowledge and address the systemic nature and collective responsibilities for these harms.

The system also identifies and locks parties into individual roles/identities within the process: individuals are either victims or offenders but not both within the process. This reinforces a siloed view of individuals as separate from one another. Processes are focused on disputes between individuals and not on individuals and their relationships to each other and within the community. This bipartisan approach positions individuals as separate with distinct interests and expectations and feeds the adversarial nature of the system. This does not account for the complexity of experience and lives that are not carved up along these lines but are bound up with one another in ways that are often messy and intertwined.

C. Focused on rule breaking, not harms

Mainstream systems are focused on responding to individual cases. A case is generally determined to be worthy of attention if there is a breach of the law or rules. This focus on law or rule breaking often comes at the expense of a focus on the harms and the needs of the parties involved. Responses are often shaped or dictated by what is possible or required by the system. These system requirements are generally set out in the procedures and regulations that determine the role and responsibilities of parties and possible outcomes. This drives a very legalistic

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response to harm. Rules tend to be prescriptive, fixed, and rigid, and not responsive and flexible as required to meet human needs. Responses are seldom designed and adapted according to the circumstances and needs of the parties or the nature of the situation or harms involved. Where the human dimension is considered, it is generally outside or alongside formal processes.

Another consequence of the focus on law or rule breaking as the subject of justice, as opposed to the harms and needs of those involved, is the professionalized nature of response processes. The emphasis on rules and procedures places power in the hands of those with specialized knowledge and authority to carry out this work. This takes power away from those who are directly affected by or closest to the situation. While blame and accountability are placed on those who caused or contributed to harm, responsibility for justice is given over to professionals authorized to make decisions. These professionals include internal investigators, human resource professionals, social workers, police, prosecutors, and judges.

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This professionalization of justice responses not only disempowers parties with a stake in the matter (those harmed and those who caused the harm, as well as those who contributed to the harm or can play a role in making the situation better), it also has a significant effect on the willingness of public officials (including elected officials) to respond. Deference to professional advice without careful consideration of other perspectives and factors gives significant power over to professionals. It undermines more inclusive and participatory processes that empower those involved in a situation to have their voices and views shape the response.

This professionalization has also contributed to, and reinforced the fragmented approach of, systems and their responses to issues and concerns. The response to issues at the Home illustrates this powerfully. Responding to issues raised by residents was viewed as a matter for the justice systems (and lawyers). These professionals also had a narrow perspective on the role and responsibilities of the justice system, as focused on individual harm and individual wrongdoing. This explains, for example, why police would return children who had run away from the Home without investigating, inquiring, or even reporting to others in the care system. Absent an accusation or evidence of abuse (individual wrongdoing), there was no responsibility or role for the police to inquire why residents were running away (even when there were repeat patterns from the institution).

The fact that responses generally require finding a breach of laws or rules also explains the significant attention that was paid to making this determination with correspondingly little attention to the experience or impacts of harm on individuals and/or the community. The story of the response to abuse allegations about the Home reveals that significant time, energy, and

resources went into fighting about whether there was a legal obligation and if it was breached. As a result, the central concern became whether and what rule had been breached, not the experience and needs of those affected.

D. Backward focussed on blame/fault for past actions

Another, and perhaps defining, characteristic of our mainstream response systems and processes is their focus on ascribing blame and liability for past actions. The efforts of adversarial processes are directed at evening the scale for past wrongs or securing payback for that which was lost. Generally, the scales are weighted and payment made by exacting a measure of punishment or money. Particularly where the harms and losses are not material (not about a loss of money or property), the payment is symbolic — an attempt to signal or communicate the significance of the breach. The focus of the response is backward and outcomes measured against what is owed for the past and not what is needed for the future. Payment is owed where blame or fault is determined. As a result, most of our processes that are designed to respond to harm are oriented to do the work of investigating in order to lay blame or find fault for the past. They are not designed to do the work of sorting out what needs to happen differently in the future and including those with responsibilities for that work.

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The focus of response systems on blame and fault, coupled with their adversarial nature, invites a defensive response by those who are accused of causing harm. It has also generated significant attention, particularly within systems and organizations, to avoiding risk of legal liability.

The focus on blame/fault and the liability that follows from it makes it difficult to find space for responsible parties to do the work of learning and understanding required to make things better. Instead, efforts are focused on denying responsibility out of fear of blame and liability for an imposed punishment or payment.

The focus on blame/fault and the defensiveness it produces has significantly shaped responses to harms at the Home. For example, the Government and the Home sought to place blame on individuals for what happened in the past, rather than on institutional or system factors. Reactions were largely focused on protecting people from blame unless proven guilty, rather than on the needs of residents. Defensiveness and risk aversion were evident in their hesitancy to call in authorities when there were reports of harms. It also influenced reaction to harmful behaviour of residents to one another, as it was viewed through the lens of individual blame and seen as evidence of moral failings in need of discipline. It did not prompt an examination of the reasons and context for such behaviour that may require understanding and support.

The focus on blame/fault and the liability that follows from it makes it difficult to find space for responsible parties to do the work of learning and understanding required to make things better. Instead, efforts are focused on denying responsibility out of fear of blame and liability for an imposed punishment or payment.

Even when matters are settled outside of formal processes, it is often on the condition that there is no admission of liability in order to protect against further or future claims. In the process, though, the symbolic power of the settlement is defeated by the failure to connect terms and payment to acknowledgement of the harm. This can be seen in the first apology offered by the Home as part of the settlement process. As a result, the former residents rejected the apology as too weak to be a meaningful acknowledgement.

The preceding discussion is not intended as a criticism of the intentions of the various actors involved in these efforts to respond to institutional abuse. It reveals the underlying approach that shapes the actions and reactions of individuals, institutions and systems in response to abuse claims.

E. Responding to Institutional Abuse at the NSHCC

The above characteristics have significantly shaped the mainstream responses to institutional abuse generally, and certainly in the case of the Nova Scotia Home for Colored Children. The preceding discussion is not intended as a criticism of the intentions of the various actors involved in these efforts to respond to institutional abuse. It reveals the underlying approach that shapes the actions and reactions of individuals, institutions and systems in response to abuse claims. As we considered in Part 1 of this chapter, ideas and assumptions built into the structure and fabric of systems can have powerful impacts on the ways in which individuals think and act. This is certainly true in terms of the impact these ideas about justice and just responses have had on efforts to respond to institutional abuse.

We can see the influence of this approach in the case of the Home as residents/former residents sought a response to their abuse. The Inquiry has not focused on a detailed analysis of each of the systems and processes and the experiences of former residents in relation to them. Our efforts have been focused, as with our other two central issues, to considering what matters about the experience of seeking responses to this institutional abuse to ensure better responses in the future. Indeed, the process of the Inquiry itself, from design through to implementation, has paid particular attention to learning from the experience of former residents as we were tasked with responding to institutional abuse differently. The insights we have gained from this process have substantially informed our understanding and work on this central issue, as shared in Chapter 6. As we have sought to take "a different way forward," we have had to contend with how powerful and ingrained the traditional way of responding is, both within our systems and individual expectations.

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It is helpful to offer a brief review of how the nature of the mainstream responses impacted former residents' efforts to seek justice in response to their abuses. How do we understand how the various systems and processes they turned to dealt with, or failed to deal with, their claims of abuse? It is particularly important to understanding because it shaped the former residents' commitment to their journey to light, including their vision and efforts to establish this Restorative Inquiry. The discussion of the common approach and character of these systems helps explain the ways in which all of these systems failed in their response. We will not repeat these issues again with respect to each of the mechanisms former residents used. Instead, we seek to understand the history and experience of former residents' efforts to get a response to their abuse in light of our understanding of the character of these systems and processes.

It is helpful to consider the experience of residents in terms of seeking response for their harms and abuses both while they resided at the Home (coincident with the harm/abuse), and after they left the Home, when they sought redress for historical harms and abuse. While the adversarial approach shaped responses in both cases, the mechanisms available and the experience of seeking response was different, and so warrants separate consideration. Generally, response to abuse (coincident or historical) was sought through the following mechanisms: internal system complaint/investigation processes, criminal justice system, civil justice system, and public inquiry. As discussed above, these systems take a common approach and share similar characteristics. They are not, however, identical in their structure and operation. Each has particular strengths and weaknesses that shaped the experience of those seeking response through them.

While this report does not attempt to offer a detailed review of each of these systems, we will consider salient differences and commonalities as they impacted the experience of residents of the Home. By way of overview, the following chart highlights points that have become clear in our examination.

Internal System Complaints	Criminal Law	Civil Law	Public Inquiries/Reviews
☐ Individual and system focused	☐ Public	☐ Victim more central	☐ Public
☐ Limited to focus on a particular individual	☐ Individual not systemic	☐ Private harms	☐ Focus on individual but also systemic
☐ Focused on breach of rules/procedures	☐ Backward looking	☐ Individual not systemic – except some class actions	☐ Focused on blame and responsibility
☐ Adversarial	☐ Focused on ascribing blame	☐ Private not public interest	☐ Backward and forward looking
☐ Generally confidential and private	☐ Punitive	☐ Backward looking	☐ Often adversarial
☐ Generally focused on discipline	☐ Victims need not central (harm against the state)	☐ Remedy aimed at putting victim in position the were in before harm occurred	☐ Often less harmful for victims but role unclear
☐ Sometimes remedy change in rules	☐ Adversarial	☐ Focused on fault to ascribe liability	☐ Remedies – recommendations for action
☐ Concerned with risk/liability for system	☐ Process often harmful to victims	☐ Lower burden of proof – balance of probabilities	☐ Depends on public attention and moral authority for power
	☐ High burden of proof – beyond a reasonable doubt	☐ Adversarial	☐ Impact often politically managed
	☐ Sometimes helpful for temporary incapacitation	☐ Process often harmful for victims if accessible at all	
		☐ Remedies individual and often $	

I. Response Coincident to Harm and Abuse: As Residents of the Home

i. Internal System Complaints

One of the mechanisms available to residents (when they were living in the Home) was internal system complaint processes either within the Home or through the child welfare system. Given what we have come to understand about the nature of the Home as a private child-caring institution, and the fact that, for much of its history, oversight was minimal or lacking, it is perhaps not surprising that internal system complaint processes were not an effective vehicle for residents seeking help. Indeed, there were very few records of such complaints in the documents we reviewed during the Inquiry. Of those that existed, several were generated by other agencies (notably children's aid agencies) complaining about the treatment of their wards placed in the Home, or came from staff at the Home complaining of their treatment at the hands of residents, or about residents' behaviour towards one another.

A significant factor in the lack of complaints by residents seem to have been access to someone safe to complain to. As the review of the governance and operations of the Home in Chapter 3 revealed, for significant periods of its operations, the Board of the Home was not closely connected to the caregiving activities of the institution. Also, during much of the Home's history,

staff had played a leadership role on the Board (in the governance) of the Home. As a result, there were few avenues for residents to express concerns about their treatment other than to the staff that oversaw their care. Former residents also reported very little access to the agents from children's aid societies or their social workers who placed them in the Home. This issue was identified in inspections and reviews of the Home throughout the decades of its operation. This is particularly remarkable given these officials remained legally responsible for their wards' care even once resident in the Home. What contact there was, former residents report, often happened under the watchful eye of the staff at the Home. Former residents also shared that they were threatened not to share details of their experiences in the Home with those outside or they would be punished. As the Law Commission of Canada notes, the "total" nature of these institutions contributed substantially to the vulnerability of residents to abuse, and to the conditions that secured silence about abuse.

Complaint processes generally rely on the fact that those affected will be willing and/or able to complain. Beyond the general institutional oversight and review processes (which increased and improved, at least in their number, if not their impact, over the life of the NSHCC), there was no regularized efforts to check in with residents about the quality and nature of the care they were receiving.

Complaint processes generally rely on the fact that those affected will be willing and/or able to complain. Beyond the general institutional oversight and review processes (which increased and improved, at least in their number, if not their impact, over the life of the NSHCC), there was no regularized efforts to check in with residents about the quality and nature of the care they were receiving.

It is also the case that complaint processes were concerned with specific incidents as a trigger for complaints. This does not encourage or require the various adults across systems surrounding the residents and the institution (police, teachers, clergy, doctors…) to be looking for signs and patterns that ought to have raised concern, even absent a specific incident or complaint. We heard from former residents about the kindness shown by many people in these systems (for example a cook at the Home, teachers, camp counsellors, social workers, etc.) who sought to respond to the obvious needs of residents whether for food, clothes, or attention, but they did not make any formal complaints about the circumstances or issues they saw. We have also heard that people in these positions, particularly if not within the child welfare system, did not know whom to complain to, or where. In part, this lack of willingness or awareness to raise concerns is the challenge of a complaint system that relies on blame and requires evidence of violation of rule or laws. Without greater knowledge of all that is happening, or proof that a wrong has occurred, it is perhaps not surprising that those outside the Home did not think to complain or express official concern to the system. Also, there was substantial risk that complaining would not actually get the needs of the child met, but would result in greater vulnerability to retaliation by those accused. This was particularly the case if the only place to register a complaint was to the Home officials.

Even those "complaints" that were lodged through the various reports by visitors and reviewers did not seem to result in any tangible change to the experience of former residents. Indeed, as evident from our review in Chapter 3, several reports repeat the same concerns (and recognized they are doing so) regarding the treatment and care residents were receiving without any discernable effect. As discussed in the previous part of this chapter, there are a range of systemic factors that contributed to the failure of the Home to respond to these issues. Nevertheless, the enduring issues likely created a sense of pointlessness for others within the system about making further efforts to complain without evidence it would have any impact. This would be true for staff within the Home and actors in other systems connected to the residents or the Home.

ii. Criminal Law

As discussed in Chapter 4, criminal responses to abuse claims are perhaps most significantly connected to our central issue on systemic racism. It is important to acknowledge, as the Federal Minister of Justice does in his message at the beginning of the 2019 Report on the State of the Criminal Justice System, that: "our current system does not serve all Canadians equally."[141] This was true then and remains so today for African Nova Scotians. The criminal justice system reflects the past and present systemic racism against Black people in Nova Scotia. For example, according to a recent report by Nova Scotia's Correctional Services, "African Nova Scotians make up about 2 per cent of the Nova Scotian population, but represented 11 per cent and 10 per cent of admissions to remand and sentenced custody, respectively. … African Nova Scotians were over-represented both in admissions to remand and in admissions to sentenced custody in 2017–18."[142] It is also a priority in the current business plan for the Nova Scotia Department of Justice to: "Develop Africentric programming that better meets the needs of African Nova Scotians involved in the Justice system, with the goal to reduce their overrepresentation."[143]

As discussed above, one of the weaknesses of the mainstream justice response to abuse was its individualized focus on law breaking versus harm. As a result, residents who ran away from the Home in an attempt to escape the experiences at the Home were often apprehended by the police and returned to the Home without question or investigation. This was consistent with the particular role of police. It also reflected the general disconnect in terms of sharing information across systems or institutions. Information regarding the general well-being or experience of residents, as evidenced by patterns of behaviour that came to police attention, was not passed on to other parts of the care system for attention if it was not relevant to the police.

Other than when behaviour garnered attention from the police (as was the case when residents ran away), residents would rely on adults (at the Home or connected to them through other systems) to alert the authorities that there may be an issue of harm or abuse requiring

investigation. The documentation available to the Inquiry reveals that this was not always done. When incidents were reported to the police and investigations conducted, they were restricted to the actions of the individuals accused and did not examine the systemic issues at the institution that may have contributed to the harms and abuses.

Complaint processes — both formal or informal — and criminal justice reflected many of the same characteristics as formal criminal justice system options available to respond to institutional abuse. The failure of internal system processes and the justice to respond to and protect residents meant that many of them did not feel they could begin to address what had happened to them and to seek a response through the justice system until they left the Home as adults. As Chapter 4 recounts, former residents sought responses through the criminal and civil justice systems and, ultimately, through the mechanism of a public inquiry. While each mechanism offered something different in response, they were all rooted in a similar adversarial approach to justice.

II. Response to Historical Harm and Abuse: As Former Residents of the Home

i. Internal System Complaints

The review of the events following the revelations of former residents regarding the abuse they experienced while in the Home in Chapter 4 reveals the number of different mechanisms former residents used to seek a just response. Most central to these efforts were individual criminal complaints, civil suits (individual and, ultimately, a class action), and calls for a public inquiry. Internal complaint processes were not generally available to former residents to deal with historical allegations of harms and abuse. These processes are generally focused on complaints about incidents in the current system. This is why former residents who raised concerns with the current child protection system were directed to report the issues to police unless they related to the welfare of children currently residing in the institution. Some former residents did, in fact, raise concerns about issues they had knowledge of that may have had relevance for current child protection, but most of the issues related to their past harm and abuse. As a result, former residents had to turn to the justice system (criminal and civil) in order to seek a response. The limits of these internal complaint mechanisms reflected the individualistic focus of the system. The complaint system was clearly oriented to respond to incidents or problems with individuals within the system, but not with system problems that might well continue to place children at risk. The system process was not designed to respond by seeking to understand what happened in the past in order to examine its relevance for present and future care. While this is true in terms of the formal complaint mechanisms and response, it does not mean that there was no concern

The complaint system was clearly oriented to respond to incidents or problems with individuals within the system, but not with system problems that might well continue to place children at risk.

or consideration triggered by the reports of historical abuse. We have learned through the Inquiry that the allegations of harm and abuse caused significant reflection and review within the responsible departments. Such efforts were, however, generally informal and confidential, particularly once formal criminal and civil complaints were initiated. Once the adversarial justice processes were underway, information gathering and examination foreclosed much of the space needed for learning and understanding within the system.

ii. Criminal Law

The former residents thus turned to the justice system for help in responding to their harms and abuses. They first brought individual complaints forward to police for investigation. Through our process, we have heard about the difficulties of responding to institutional abuse through a legal process designed to deal with individual incidents perpetrated generally by individual offenders and constrained by a focus on proof of law breaking, not truth about harm. At all stages, the response is shaped in service of the criminal justice process. From the investigation through to the determination of whether to lay charges or proceed with prosecution, the process is oriented to assess whether there is sufficient evidence to succeed at a trial or sufficient public interest to try. The evidentiary burden is also significant in a criminal case. There must be sufficient evidence to make out a case beyond a reasonable doubt, and there must be a reasonable likelihood of success in doing so. These constraints regarding evidence and public interest pose particular challenges in historical complaints. With the passage of time, physical evidence and memories are altered or lost, diminishing the reasonable likelihood of successful prosecution. This had a significant impact in the case of the Home.

The nature of the criminal justice system also meant that successful prosecution was more likely in cases where an individual living perpetrator could be identified. As a result, this avenue for redress was not promising for those who could not clearly identify their perpetrators or in cases where the individuals involved were no longer living. The system was not capable of offering a response aimed at addressing the institutional and collective responsibility for the harms and abuses suffered. The criminal justice response in this case faced many of the issues familiar from other historical abuse claims (individual and institutional), and was further impacted by the context of systemic racism in the justice system. The systemic racism in the justice system in Nova Scotia was recognized and addressed by the Royal Commission into the prosecution (and wrongful conviction) of Donald Marshall Jr. in 1989.[144] Many of the findings and recommendations regarding the nature of the justice system have relevance to our understanding of the response to the abuse in the NSHCC. Racism contributed to a lack of trust and willingness for some former residents to come forward to police. It also likely impacted assessments of credibility and the exercise of discretion by justice system decision makers regarding complaints.

Former residents shared their experiences by coming forward to police. The "interviews" reflected the adversarial approach to justice, which sought to determine truth through questioning designed to test the truthfulness of those coming forward as well as the strength of their evidence and the case to be made. The experience was traumatic for many of those who came forward. The painful experience was made worse when it seemed all for nothing as it was determined that charges would not be laid. Absent a nuanced explanation and appreciation of the limits of the criminal justice system the decision not to lay charges felt like a rejection (and a public one) of the truth of former residents' claims about the harms and abuses suffered. The police agency's careful wording that this was a decision based on the available evidence did little to help. It felt particularly unfair that such a determination would be made without the benefit of having their "day in court" without the chance for their voices to be heard.

iii. Civil Claims

The failure to find justice through the criminal justice system led many former residents to file individual civil suits seeking compensation for the harms and abuses they suffered. This avenue seemed more promising because they did not have to rely on authorities to take up their case. In a private civil claim, they could pursue the claim on their own. The only catch was that successfully accessing and navigating the civil justice system, particularly on a historical case that would make the production of evidence difficult, really required the assistance of a lawyer. The private nature of the civil justice system means that claimants are responsible at the outset for finding the resources to fund a case. Given the economic inequality and insecurity faced by many African Nova Scotians and the similar issues often plaguing those who lived in care, it was not a small hurdle to overcome. It required finding a lawyer able and willing to invest significant capital upfront in the hopes of recovering compensation if the case was successful. As we discussed in Chapter 4, in the case of the Home, the civil case (individual claims initially and then the class action) took almost 15 years. The process also required a significant amount of time and resources for the claimants in order to travel and participate in the numerous proceedings.

The private nature of the civil justice system means that claimants are responsible at the outset for finding the resources to fund a case.

To support the civil process, legal counsel for the former residents had to provide financial aid upfront to support participation. All of this required a significant undertaking of risk by private legal counsel in order ensure access to this justice process for former residents. This access to justice problem is not limited to the former residents, nor to efforts to address institutional abuse or failures. It reflects a larger crisis in access to the civil justice system, and access to justice more broadly in Canada. The 2013 report of the National Action Committee on Access to Justice in Civil and Family Matters concluded, "[t]here is a serious access to justice problem

in Canada. The civil and family justice system is too complex, too slow and too expensive. It is too often incapable of producing just outcomes that are proportional to the problems brought to it or reflective of the needs of the people it is meant to serve."[145] The committee explained: "According to a wide range of justice system indicators and stakeholders, Canada is facing major access to justice challenges. For example, in the area of access to civil justice Canada ranked 13th out of 29 high-income countries in 2012–2013 and 16th out of 23 high-income countries in 2012. According to the 2011 study, Canada's ranking was 'partially explained by shortcomings in the affordability of legal advice and representation, and the lengthy duration of civil cases.' "[146]

Seeking redress through a civil claim also seemed more promising because of the lower standard of proof required. Civil cases only require that one is able to prove one's case on a balance of probabilities — that it is more likely than not that it happened. Given the inherent difficulty claimants already faced because of the historical nature of the claims, and the fact that residents were minors when their abuses took place, this lower standard offered more hope for success than the criminal justice system.

Pursuing justice via a civil claim was also more attractive because it allowed claims against the institutions and systems responsible for former residents' care and the failures of care they experienced. This was significant for a few reasons. First, it enabled more former residents to seek redress because it did not require the individuals involved in the harms or abuse to be named in the lawsuits. As mentioned above, this was difficult for some because individuals were either difficult to identify or had passed away. It was also important, though, because it meant that the institutional and systemic nature of the harms and abuses could be captured by such claims. As discussed in Parts 1 and 2 of this chapter, it is not possible to fully understand or respond to the harms and abuses solely through attention to the actions of individuals absent attention to the contexts, causes, and circumstances.

Despite the ability to seek redress from institutions and the child welfare authorities, though, the civil justice system was still focused on determining fault and liability for discrete actions that breached the law. Insofar as there were multiple parties found to have contributed to the harms, liability would be apportioned accordingly. In this way, the understanding of the issues and harms sought to simplify the nature and causes of the harms. Even though the standard of proof was reduced from the criminal justice system, similar challenges with respect to historical evidence persisted. This was particularly so, since much of the evidence required to prove the case was in the hands of the Government, the children's aid societies, or the Home. It was even more of a challenge given former residents were children at the time of the abuse, and that the nature of their institutional life meant having little or no control over their lives or information about their lives as children.

The civil justice process was also still adversarial. In fact, for former residents, it was perhaps a more directly adversarial experience than in the criminal justice system. This is because, in a civil claim, former residents were the claimants responsible for making out their own case against the other side. They were not only witnesses in the case brought by the Government against those responsible, they also bore the burden of being on the other side of an adversarial process (and in this case, against the Government as one of the parties). As mentioned though, it was an advantage for former residents that they had control over civil claims given the decision by state authorities not to pursue criminal cases. The civil justice pathway was not, however, without its own challenge for claimants.

The civil claim was complex in this case because of the number of institutions involved which, as detailed in Chapter 4, increased the impact of the adversarial process in terms of stress, resources, and time. Former residents had to contend with defences from all three sources in seeking to make out their case. This included the Home, Government, and the children's aid societies each pointing to each other in an effort to avoid or apportion fault. Also, they were each entitled to test and respond to the claimants' evidence, which increased the time and stress of the process for former residents. This was made slightly easier for the former residents once they were able to file a Class Action Claim. This allowed many former residents to seek redress without having to be actively involved in the litigation.

It was still a very difficult process for the lead plaintiffs in the case. While there was some support in being part of a group of lead plaintiffs and representing a larger class of plaintiffs, this also involved the additional stress of representing a whole class. Several of the lead plaintiffs took their responsibility of representation seriously. Indeed, this is how the group VOICES was founded. Some of the former residents representing the class worked with class counsel to hold a reunion for former residents so that they could support one another. They took the opportunity to consult with former residents about what was important in terms of the journey ahead through the litigation, and as they sought recognition and redress for their experiences in the Home. It was at this reunion, and through the work of VOICES that followed, that the commitment was established to ensure no further harm was done and no one was left behind on their journey to light.

The civil justice system is not generally a swift avenue to justice, but it can be significantly slowed depending upon the strategies and choices of the parties. Delays in the justice process are often difficult for victims, but even more so when tactics are employed at the front end of the process before the substance of the matter is heard. Such concerns led the Law Commission of Canada, after considering the impact on survivors of institutional abuse, to recommend:

> Whatever particular responses are being pursued by a survivor, Governments must respond with candour and integrity: no information should be strategically withheld, and no procedural tactics should be deployed simply to gain an

> advantage. Governments must also treat all parties equitably: no processes should be undertaken with the idea of preferring communities to individual survivors, or playing off categories of claimants against each other. Also, Governments must not seek to defend their interests by exploiting the litigation process: they should not plead a limitation period when this is the only defence, nor should they engage in excessive cross-examination just to induce a settlement.[147]

As outlined in Chapter 4, respondents (particularly the Government) in the litigation regarding abuse at the Home availed themselves of many procedural motions and other legal strategies with the effect of increasing the delay and burden for claimants.

One of the other advantages of the civil justice system is that class action claims sometimes provide a platform or framework for settling cases. This was the case of Indian Residential Schools in Canada, where the mechanism of a class action enabled coordination of a significant national settlement. This was ultimately a factor in the Home case. Although such processes are often oriented to settling legal claims, they can be more creatively crafted to provide redress for historical harms beyond the parameters of strict legal liability.

In the case of the Home, this space to do more than simply settle the case on the terms as dictated by the civil justice system was created by the former residents. The settlement amount was calculated by the Provincial Government according to their assessment of legal liability rather than what was needed to address the harm for former residents. As outlined in Chapter 4, settlement was only allotted for the estimated number of residents post-1951 (because, before that time, you required permission from the Crown to sue the Government and no such permission was granted in this case). Also, the amount of money offered was only calculated to compensate those who were wards — those apprehended by the state and placed in the Home. As we know from the history of the Home, many children were placed there by family or community in order to avoid state involvement and yet obtain support and care for families in need. This increased the resource demands at the Home and contributed to the conditions and circumstances of neglect and abuse. The limited view of liability for harm and abuse ignores Government's responsibilities for systemic and institutional racism and its impacts on those who resided in the Home and their experiences in it. Finally, the amount of compensation was capped at the Government's estimates on the number of eligible former residents. The risk that more would come forward and qualify for compensation would be borne by the members of the class and meant that the money would have to be stretched further across more claimants. This is opposed to a settlement that identifies criteria and a mechanism for distribution and then guarantees full funding to meet the determinations under that process. The settlement for the Home capped the amount; however, it did not prescribe the process and criteria for distribution. This was left to the former residents to design.

This allowed space for the former residents to design a settlement distribution consistent with their commitments to one another to do no further harm and leave no one behind. The lead plaintiffs involved in VOICES worked with class counsel to design such a process and to ensure that the process was about more than simply settling their legal claims. They sought to ensure that the settlement process was approached as part of a broader redress plan in an integrated and holistic way.

Redress plans do not always emerge from civil settlements; sometimes all that can be achieved is the settlement of legal liability. Alternative dispute resolution processes designed to deal with such cases are often structured by the terms and objectives set by the civil justice system. While offering alternative process option, they seldom offer an alternative approach to justice itself from which different processes could be designed and implemented. As a result, it is challenging to find alternatives to the civil justice process that meet the needs of all parties and are deemed legitimate by the terms of the system. Alternatives are generally developed in the context of, and against the backdrop of, civil claims. They are developed as alternative processes to resolve civil disputes. It is not surprising that such processes often share many of the characteristics of the mainstream justice system. Insofar as they depart from these elements, they risk being found lacking in fairness or legitimacy in their determinations. This is particularly an issue if the outcomes of such alternative processes are viewed through the lens of the civil justice system in terms of determinations of individual/institutional fault/blame underlying compensation.

This problem was perhaps most clearly identified in the independent review of Nova Scotia's Response to Reports of Institutional Abuse by Mr. Justice Kaufman in 2002. Justice Kaufman was appointed to conduct his review following the Provincial response to allegations of institutional child abuse at the Shelburne School for Boys and other Provincial facilities. Justice Kaufman's assessment of the compensation efforts was framed by the values and approach of the adversarial justice system. Perhaps appropriately so in this case, because, while well intentioned in an effort to avoid harmful processes for those who have been impacted by abuse, the alternative process was nevertheless framed as an alternative process to compensate for civil liability. Compensation was interpreted by the public and, significantly, by those who were involved with the institutions as indicative of fault and blame absent a verification process that would allow for a fair "fight" about the facts of what happened. Mr. Justice Kaufman found the response erred in making such determinations without due process that would allow opposing parties to have their say and to test the claims through an adversarial process.

In his final report, Kaufman indicated that he, "found the Law Commission's analysis to be extremely helpful in identifying the needs of survivors and the criteria and principles to be used to examine the merits of various approaches." He noted that the Law Commission recognized that the needs and interests of everyone involved need to be considered when designing a response, and used this to qualify the Law Commission's approach to redress saying: "[o]f course,

I share the Law Commission's view that fairness for all affected parties must be considered in assessing any approach to reported institutional abuse. However, I hold a somewhat different view as to how fairness is to be achieved, particularly for alleged abusers, within a government redress program."[148] Justice Kaufman's express commitment was to ensure processes met the needs of all concerned. Perhaps not surprisingly, given his role as a judge within the adversarial justice system, his analysis and recommendations reflected a faith in, and commitment to, existing adversarial processes as the means to vouchsafe legitimacy and fairness. As a result, Kaufman's analysis and recommendations allowed for the role of Government redress programs but reinforced the place of mainstream adversarial justice approach as core to such responses. As a result, Kaufman's notion of redress and compensation is individualized, blame focused, and backward looking.

Justice Kaufman's findings make sense given the framing of the alternative process as an alternative *within* the civil justice system — a different route to the same end of resolving civil liability and compensation. Surely, he is correct that processes oriented to laying blame, finding fault, and providing compensation owed in response to the liabilities resulting from this fault must be designed in a way to ensure fair process for those who are being blamed. However, his report gave little thought as to whether the problems with the process actually laid in the framing of the process through the lens of the civil justice system. Especially given the evidence of the broader intentions of those within the Department of Justice aimed at responding to the harms and addressing the broader issues of institutional failure of care, perhaps the failure was pursuing this goal through a process oriented by the terms of the current justice system. The harm to those who were involved in the institution came from proceeding in a way that rested on individual blame for the past but that failed to explicitly consider the systemic issues and collective responsibility for the harmful impacts.

Instead, what was required was a process that could assess the truth of what happened and its impacts in trauma-informed ways that allowed for complex relational truth. This does not require simply believing truth and leaving it unexamined. As the Law Commission report explains:

> Many people are sceptical of non-judicial redress programs because of their perception that there will be insufficient control over fraudulent claims. It is true that the standard of proof for civil, and especially criminal, trials reduces the likelihood of fraudulent claims or charges to succeed. But there are many other, existing compensation programs that do not require claimants to undergo extensive cross-examination in an adversarial setting. The criminal injuries compensation process is an example. Those who hear and determine criminal injuries compensation claims have acquired a level of expertise and experience that helps them to detect unfounded claims. There is no reason to believe that similar processes for filing and supporting claims, and similar techniques for achieving validation cannot be incorporated into any redress program.

> In addition, it must be accepted that just as no judicial process is error-free, no redress program will be error-free. Providing compensation to survivors is a quite different objective from ensuring that no person is ever wrongfully convicted. Given this purpose, it is better to err on the side of making payments to some who may not be entitled to compensation, than to exclude legitimate claimants, or to oblige survivors to go through a re-victimising fact-finding process. In all events, survivors themselves have every interest in ensuring that an appropriate validation mechanism is put into place. It will benefit them in that it will ensure that the legitimacy of the awards is widely accepted, and it will mean that whatever resources are made available in a redress program are not dissipated by the payment of fraudulent claims.[149]

It requires careful attention, then, to the ways in which truth is ascertained and assessed and against what standards. The purpose of the process has a determining effect on this process. If truth is sought in order to provide proof needed to determine blame, and the quantum of what is owed, then traditional adversarial processes will be attractive. If, though, the truth is sought in order to understand what happened, its impacts and implications for the future, and how to fulfill our collective responsibility to make things right, we need quite different processes. Processes that invite information about the fact of what happened and also seek to understand why and how it happened, and its impacts, are key to this work. Such truth also requires input from all of those who were involved — those affected, those with responsibilities for what happened, and those who have knowledge that will help with an understanding of what happened and why. Were this the purpose of the process, its determinations regarding compensation would have been less harmful to those who felt blamed in the process. It is also clear that the alternative processes would need to be designed to be inclusive and support participation by all those involved or affected. In this way, what is needed is an alternative justice pathway — not merely alternative processes to travel the civil justice path. This was the vision of the former residents of the Home. They sought a different pathway for their journey to light, one that would require more than alternative ways of walking down the mainstream justice road.

In this way, what is needed is an alternative justice pathway — not merely alternative processes to travel the civil justice path. This was the vision of the former residents of the Home. They sought a different pathway for their journey to light, one that would require more than alternative ways of walking down the mainstream justice road.

The Shelburne compensation experience, the public response, and the findings of Mr. Justice Kaufman's review seem to have had a significant impact on the Government's initial response to the abuse claims related to the Home. It heightened the already significant concern with risk and liability involved in responding outside of the formal justice system. It reinforced a

commitment to the safety and legitimacy of adversarial verification processes. The risks associated with alternative processes reinforced the commitment to adversarial processes as necessary to verifying truth and "fair" process for all concerned. It was difficult, particularly given the ongoing civil claims regarding the Home, to imagine a justice pathway outside the frame of the mainstream system approach. It was difficult to overcome the worry about a different process because of the frame of reference (reinforced by the Kaufman review) which cast suspicion on alternatives if they did not retain the trappings of the adversarial process.

The report significantly shaped the Provincial Government's view of the NSHCC case, despite Justice Kaufman's explicit acknowledgement that:

> In formulating recommendations, I must be mindful of the fact, earlier alluded to, that there can be no perfect template for a government response to reports of institutional abuse. Too many variables are operative to enable such a template to be created. Indeed, one of the failings of the Nova Scotia program was that its designers too easily borrowed from the experience in other jurisdictions without sufficient regard for local circumstances. … What this means is that my recommendations are not intended to predetermine a government's response to reports of institutional abuse in every situation, but to guide governments towards creative responses that recognize and address the appropriate considerations.[150]

In the end, Kaufman's review and the public response to the Government compensation program for Shelburne and the other institutions seemed to have significantly quelled the Government's willingness to engage in creative responses with respect to the NSHCC. Kaufman's recommendations invoked legal notions of credibility, validation, and fairness that made it difficult to imagine or gain support for less legalistic and non-adversarial avenues to respond. This was true despite considerable recognition by Kaufman of the need for responses to be "enduring" in the sense of contributing to reconciliation and healing[151] and the call that,

> …consideration be given to how a government response can ensure inclusiveness, respect, and engagement of all claimants. Such consideration may extend to many aspects of the government response: for example, consultation or partnership with representative community groups, the selection of program designers, administrators and fact finders, and the formation of claimant advocacy groups or joint advisory or implementation committees.[152]

The Kaufman Report remains an important reminder that if the aim is to make determinations through alternative processes still within the adversarial justice system, then it is important to ensure the characteristics of an adversarial process so it is a "fair fight." If, however, the intention is

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to respond with a different approach to justice, then it is very important to be clear that the intention and goal is different, and to articulate the different principles that will guide the process. What was required for the former residents to find an alternative justice path was a shift in the understanding of justice capable of supporting a different approach to redress. Given the prevalence of alternative dispute resolution aimed at settlement within the civil justice system, it required careful and sustained attention by the former residents in seeking a different response to their harms and abuses.

Former residents had a vision of justice that required a shift to focus on understanding their harms, not through a focus on who was to blame for them. This allowed a more complex story with attention to the contexts, causes, circumstances, and factors both individual and systemic that contributed to their harms. This understanding was also important to appreciate the actions and experiences of individuals who worked in the institution. It supported a different understanding of responsibilities, both collective and individual, focused on moving forward, not on evening past scores. The former residents insisted on a process that would look back at what happened to them not to apportion blame but to move forward into a different future. This process would enable involvement in the process of people with different perspectives and experiences without their being adverse in their interests. Indeed, this work requires hearing from all voices in order to come to understand, not just to ensure a proper defence.

In the Home case, the former residents wanted to leverage the opportunity to settle the legal claims to form part of a wider plan that included an approach to settlement that was consistent with the work of redress and reconciliation. As discussed in Chapter 4, former residents did this by ensuring the principles that would inform broader redress also structured the approach to the settlement process.

The principled commitment to ensure the settlement of the civil claim contributed to the vision of justice held by the former residents that would ensure what happened to them was not in vain, that their experience would make a difference for the future for other young people in care. The settlement process alone was not intended to do this work. While it may have been easier to align the process with the broader focus on the Inquiry, this would have delayed the settlement process further. Given the length of time and the age of some of the former residents, they determined it was important to proceed with the settlement distribution and to do so in a way that would be consistent and supportive of the broader redress and response process envisioned through a public inquiry. To do this, the lead plaintiffs worked with class counsel to design a settlement distribution plan reflective of their principled commitments. The

settlement process took a restorative approach that was intended to ensure coherence with the public inquiry that was to come. As detailed in Chapter 4, the settlement process reflected this in a number of ways:

- The approach to verification was not oriented to laying blame but to redressing harm.

  -Government and the Home supported verification by providing records to determine residency. Former residents' claims could also use any other information that could support their claim, including confirmation from other residents that they were known to be at the Home during a certain period.

- Compensation distributed in a way designed to leave no one behind and do no further harm.

  - Common experience payment provided to all former residents for the failures of good care at a systemic and institutional level that shaped the experiences of all former residents.

  - All former residents, regardless of entitlement to compensation under the law, were included in this compensation if they wished to apply, including those resident pre-1951 and non-wards.

  - Compensation for harms beyond the common experience were assessed on the basis of their likely harmful impact of experiences, rather than calculating compensation based on a value for particular acts or abuses.

- Process sought to do no further harm by being trauma informed, including supporting former residents to have control over how they shared their experiences. They were supported in the process by a facilitator and the evaluator asked follow-up questions to assess the relevant factors contributing to harm. This process allowed assessment of the truth of what happened and its impacts. It was able to assess the likely harmful impacts without disadvantaging those whose trauma prevented organized and exact recall of the details of incidents.

- The assessment process was supported by existing knowledge of the history of the institution provided by all parties to relieve former residents of the burden of proof alone and to reflect the collective shared interest in accurate assessment of the harms experienced by former residents. The process did not place former residents against the Home and Government. Their interests were not adverse in this process.

The former residents wanted to ensure the system changed to ensure better care and responses to failures of care. For this to happen, they wanted a process that engaged the public interest and was not focused on their private interests in redress. They did not want to rely on the compensation process to send a message about the failures of care, but wanted a process that could support real communication and build understanding about what happened and what mattered about it for the future. They wanted a process that would include the voices of those affected in that conversation.

- Compensation was calculated on the basis of predicative factors for childhood harm and trauma. These factors supported a harm-based assessment of compensation rather than using a compensation scale that place value on particular acts. It also avoided compensation based solely on harmful impacts in an effort to ensure former residents were not disadvantaged because of their resilience or recovery efforts.

As important as it was to resolve the civil claims and attend to individual harms in a way that did no further harm and left no one behind, the limitations of the civil justice system remained through this process. While it was able to offer some measure of recognition and redress for harms, it was not able to deliver on the former residents' broader vision of justice. It could not engage the wider community and systems needed to come to see what mattered about what happened and ensure that it made a difference for the future. The former residents wanted to ensure the system changed to ensure better care and responses to failures of care. For this to happen, they wanted a process that engaged the public interest and was not focused on their private interests in redress. They did not want to rely on the compensation process to send a message about the failures of care, but wanted a process that could support real communication and build understanding about what happened and what mattered about it for the future. They wanted a process that would include the voices of those affected in that conversation.

These goals led former residents to call for a public inquiry. They made this call in the midst of their fight for justice through the civil justice system in an effort to find a way out and a path towards justice.

iv. Public Inquiry

Public inquiries have become a significant feature of public governance and justice in Canada and throughout the world. They are increasingly considered an essential governance mechanism to tackle difficult societal problems. Societies turn to public inquiries to understand and respond to tragedies and crises. They have "become a pivotal part of public life, and a major instrument of public accountability."[153] As the Supreme Court of Canada recognized, "[c]ommissions of inquiry have a long history in Canada and have become a significant and useful part of our tradition. … Undoubtedly, the ability of an inquiry to investigate, educate and inform Canadians benefits our society."[154]

Societies turn to public inquiries to understand and respond to tragedies and crises.

Despite the place of importance and trust public inquiries hold in addressing social problems and bringing about change, serious critiques and concerns about the effectiveness and efficiency of the traditional adversarial and adjudicative approach to public inquiries have emerged and are gaining strength. The Law Commission of Canada recognized that public inquiries have "great potential for uncovering the multiple causes and effects of institutional child abuse," however,

it noted that they "can be time-consuming and expensive [and] can also delay the opportunity for survivors to seek other more immediate and tangible forms of redress."[155] Concerns have also emerged regarding the effectiveness of public inquiries to generate real or lasting action or reform. They generally only have the authority to recommend action to be taken by others and rely on political will for follow through.

The Law Commission considered the potential of the public inquiry approach to deal with the significant public issue of institutional child abuse and found "that to deal comprehensively and meaningfully with the question how best to redress institutional child abuse, a new, all-encompassing approach is indicated."[156] It concluded:

> If we rely on the piecemeal, case by case, reactive and largely adversarial approaches to redress which have been primarily used to date, it is likely to be a long, painful and expensive journey, both emotionally and financially, before the issue of past institutional child abuse is resolved. This journey will teach us few lessons about how to prevent, recognize and redress any abuse that our children may now be suffering in settings such as foster homes and organized sports programs. Starting anew, with a more comprehensive approach focussed on survivors and sensitive to their individual needs would demonstrate that, as a society, we are not afraid to face up to the legacy of institutional child abuse. It would signal that we are willing, at last, to respond to the voices we have failed to hear for so long.

While the idea of the public inquiry continues to garner public support, respect, and confidence, as evidenced by the frequency with which they are sought,[157] increasingly, those most affected or harmed echo the Law Commission's call for better processes and outcomes. This was the case for the former residents of the Home. They sought a public inquiry to bring public attention to the harms and abuses they suffered, and as a means to find a just response. But they insisted that such an inquiry must do no further harm and must leave no one behind or out of the process. They wanted a process that would make a difference. The former residents worried that a traditional public inquiry would suffer the fate of others that have investigated and made recommendations, only to have Governments stall or ignore their implementation. They wanted to ensure a central place for former residents rather than be rendered merely the subject of inquiry. Finally, they wanted a public inquiry that would make a real difference for the future. As we discussed in chapters 1 and 2, traditional public inquiries are not generally designed to function this way. They typically reflect the adversarial nature of the formal justice system. As a result, the current approach to inquiries replicates many of the significant weaknesses of adversarial processes. This led the former residents to insist on a different model of public inquiry that would do no further harm and leave no one behind, particularly the former residents most

centrally affected by the history of the Home. They wanted a public inquiry that would make a difference — that would result in real social change. In particular, former residents wanted to model a changed way of working that would build the foundation for a different relationship between the African Nova Scotia community and other Nova Scotians to address systemic racism in the province.

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Former residents sought a restorative public inquiry shaped by commitments to inclusion and participation and oriented to collaboration and co-operation among parties and stakeholders. Evidence suggested that participants in restorative processes (including those affected and those with responsibilities for what is happening) feel higher levels of satisfaction; they experience the processes as fairer and more just.[158] A restorative approach also holds potential for participants (individuals and institutions) to be more forthcoming with information (to be truthful) within a collaborative process that is not focused on blame or fault, but on understanding what happened to find solutions. The non-adversarial character of a restorative approach avoids the defensiveness that incentivizes repression of truth and, as a result, provides better access to information and knowledge. Such knowledge is essential to addressing complex problems and securing better outcomes. The broader involvement and meaningful engagement of parties and stakeholders that is central to securing and sustaining change also generates greater legitimacy and commitment to follow through. A restorative approach opens the possibility of generating collaborative solutions and collective action.

The non-adversarial character of a restorative approach avoids the defensiveness that incentivizes repression of truth and, as a result, provides better access to information and knowledge. Such knowledge is essential to addressing complex problems and securing better outcomes.

The former residents did not simply want a tweaked public inquiry model; they wanted a process designed to be restorative in its structure, approach, and outcomes. Ensuring a process that would work in this way required that the process to design the Inquiry had to reflect the very principles that would ultimately drive the Inquiry. The work of the design process was important because it tested and established the capacity of the central parties to work together as they would have to for the success of a restorative inquiry. This preliminary work has been foundational to the success of the Inquiry. It was also essential to ensure that people felt free to participate in the processes. Changes to the *Public Inquiries Act* were sought and made in order to establish freedom from liability — criminal or civil — for those participating in the Inquiry. Despite the fact that the process

was not focused on ascribing blame, there was still significant concern that the adversarial justice system frame of reference would hamper participation for fear of liability.

The restorative approach to seeking truth/understanding did not need "investigators," but rather facilitators to enable parties' participation in the process. As described in Chapter 2, the restorative approach taken to this Inquiry is marked by the use of inclusive and participatory processes that facilitate understanding of what happened in the fullness of its related contexts, causes, circumstances, and impacts to inform individual and collective responsibility necessary for action and social change. This approach challenges the traditional adversarial blame/fault focus of the current justice system that results in marginalization of victims from the process and generates defensiveness in those with responsibilities. A restorative approach is inclusive, participatory, comprehensive, and integrative. It is attentive to the contexts, causes, and circumstances related to particular incidents and to structural and systemic issues.

A restorative approach is inclusive, participatory, comprehensive, and integrative. It is attentive to the contexts, causes, and circumstances related to particular incidents and to structural and systemic issues.

Former residents were clear in their hope that this restorative approach to public inquiry would address their experiences and support timely change for children and families connected to the care system in Nova Scotia. In the process they also hoped it would model a different way to respond to institutional abuse and failures of care in future.

Endnotes:

[1] NSHCC Restorative Inquiry Mandate/Terms of Reference, page 4.

[2] CHPC, Evidence, 1st Session, 42nd Parliament, 2 October 2017, 1530 (Hon. Murray Sinclair, Senator, Manitoba, ISG).

[3] The Stephen Lawrence Inquiry Report Of An Inquiry By Sir William Macpherson Of Cluny Advised By Tom Cook, The Right Reverend Dr. John Sentamu, Dr. Richard Stone Presented to Parliament by the Secretary of State for the Home Department by Command of Her Majesty. February 1999 at Section 6.30.

[4] The Stephen Lawrence Inquiry Report Of An Inquiry By Sir William Macpherson Of Cluny Advised By Tom Cook, The Right Reverend Dr John Sentamu, Dr. Richard Stone Presented to Parliament by the Secretary of State for the Home Department by Command of Her Majesty. February 1999 at Section 6.34.

[5] Kwame McKenzie, "Rethinking the Definition of Institutional Racism" (Toronto: Wellesley Institute, June, 2017): 1–2.

[6] S. Carmichael & C. Hamilton, *Black Power: The Politics of Liberation in America* (New York: Random House, 1967).

[7] Aspen Institute Roundtable on Community Change, "Glossary for Understanding the Dismantling Structural Racism/Promoting Racial Equity Analysis", 2016 https://assets.aspeninstitute.org/content/uploads/files/content/docs/rcc/RCC-Structural-Racism-Glossary.pdf

[8] Aspen Institute Roundtable on Community Change, "Glossary for Understanding the Dismantling Structural Racism/Promoting Racial Equity Analysis", 2016 https://assets.aspeninstitute.org/content/uploads/files/content/docs/rcc/RCC-Structural-Racism-Glossary.pdf

[9] The idea of structural injustice in the work of philosopher Iris Marion Young has been helpful to understanding the significance of overt attention to the structural level. Iris Marion Young, *Responsibility for Justice* (Oxford New York: Oxford University Press, 2011).

[10] Adapted from: Kwame McKenzie, "Rethinking the Definition of Institutional Racism" (Toronto: Wellesley Institute, June 2017): 4.

[11] *Taking Action Against Systemic Racism and Religious Discrimination Including Islamophobia: Report of the Standing Committee on Canadian Heritage*, (Ottawa: Senate of Canada, February 2018, 42nd Parliament, 1st Session): 19.

[12] Further information on the history of African Nova Scotians can be found at the Nova Scotia Archives collection on African Nova Scotians, see: https://novascotia.ca/archives/africanns/

[13] Sadlier et al., "African Nova Scotians" in *Black History: Africa, The Caribbean, and the Americas* (Halifax: Delmore "Buddy" Daye Learning Institute, 2018): 304.

[14] Sadlier et al., "African Nova Scotians" in *Black History: Africa, The Caribbean, and the Americas* (Halifax: Delmore "Buddy" Daye Learning Institute, 2018): 330.

[15] Sadlier et al., "African Nova Scotians" in *Black History: Africa, The Caribbean, and the Americas* (Halifax: Delmore "Buddy" Daye Learning Institute, 2018): 331.

[16] Sadlier et al., "African Nova Scotians" in *Black History: Africa, The Caribbean, and the Americas* (Halifax: Delmore "Buddy" Daye Learning Institute, 2018): 331.

[17] African Baptist Association, Minutes, 65th Session, 1918.

[18] Sadlier et al., "African Nova Scotians" in *Black History: Africa, The Caribbean, and the Americas* (Halifax: Delmore "Buddy" Daye Learning Institute, 2018): 321.

[19] Sadlier et al., "African Nova Scotians" in *Black History: Africa, The Caribbean, and the Americas* (Halifax: Delmore "Buddy" Daye Learning Institute, 2018): 323.

[20] RI, Research File, Doc 11, Letter from Blois to Brookfield, August 6, 1917.

[21] NSA, RG 72, Vol. 198, File 6, Doc 22.2, Letter to George Murray from Blois, September 27, 1918.

[22] Renée Lafferty, *The Guardianship of Best Interests: Institutional Care for the Children of the Poor in Halifax 1850–1960* (Montreal: McGill Queens University Press, 2013): 70.

[23] Renée Lafferty, *The Guardianship of Best Interests: Institutional Care for the Children of the Poor in Halifax 1850–1960* (Montreal: McGill Queens University Press, 2013): 66.

[24] RI, Research File, Doc 11, Letter from Blois to Brookfield, August 6, 1917.

[25] 25 Renée Lafferty, *The Guardianship of Best Interests: Institutional Care for the Children of the Poor in Halifax 1850–1960* (Montreal: McGill Queens University Press, 2013): 82–83.

[26] *An Act to Incorporate the Nova Scotia Home for Colored Children*, SNS, 1915, c 107, at ss. 2.

[27] RI, Research File, Doc 39, "NSHCC Charitable Appeal", 1923.

[28] HF, Box 40–058, "Correspondence 1966–74", Letter from A.D. Grayston to A. Croft, President NSHCC, August 14, 1970.

[29] Fred R. MacKinnon, *Reflections: 55 Years in Public Service in Nova Scotia* (Halifax: Fernwood Publishing & Maritime School of Social Work, Dalhousie University, 2004).

[30] Sylvia Hamilton, *No More Secrets Workshop Guide* (Halifax: Maroon Films and the African United Baptist Association of Nova Scotia, 1999): 13. For more on the complexity of gendered violence in the context of racism, see: Bell Hooks, *Ain't I a Woman: Black Women and Feminism* (Boston: South End Press, 1981).

[31] Since replaced by The Public Sector Equality Duty and Equality Impact Assessment 2018 under the *Equality Act* 2000. See: Briefing Paper 06591 March, 2018. https://researchbriefings.files.parliament.uk/documents/SN06591/SN06591.pdf)

[32] Veronica Strong-Boag, Commissioned Submission to Restorative Inquiry.

[33] Renée Lafferty, *The Guardianship of Best Interests: Institutional Care for the Children of the Poor in Halifax 1850–1960* (Montreal: McGill Queens University Press, 2013): 6.

[34] For examples of her work particularly informative for the Inquiry, see: Veronica Strong-Boag, *Fostering Nation? Canada Confronts the History of Childhood Disadvantage* (Waterloo: Wilfrid Laurier University Press, 2011) and Veronica Strong-Boag, *Finding Families, Finding Ourselves: English Canada Encounters Adoption from the Nineteenth Century to the 1990s* (New York: Oxford University Press, 2006).

[35] Barbara Welter, "The Cult of True Womanhood: 1820–1860," *American Quarterly* 18:2, Part 1 (Summer, 1966): 151–174. This is also sometimes also referred to as the Culture of Domesticity.

[36] *Mother's Allowances Act*, S.N.S. 1930, c.4. The initial Act was limited to women who were widows with two dependent children. This remained so until 1943 when the definition of widow was changed by regulation to include women whose husbands could not provide support due to physical or mental disability. For a discussion and comparison of Mother's Allowances legislation see: Shelley Gavigan and Dorothy Chunn, "From Mother's Allowance to Mother's Need Not Apply: Canadian Welfare Laws as Liberal and Neo-Liberal Reforms" *Osgoode Hall Law Journal* 45:4 (2007): 733–771 and Veronica Strong-Boag, "'Wages for Housework': Mothers' Allowance and the Beginnings of Social Security in Canada" *Journal for Canadian Studies* (Summer, 1979).

[37] Fred R. MacKinnon, *Reflections: 55 Years in Public Service in Nova Scotia* (Halifax: Fernwood Publishing & Maritime School of Social Work, Dalhousie University, 2004): 32.

[38] Fred R. MacKinnon, *Reflections: 55 Years in Public Service in Nova Scotia* (Halifax: Fernwood Publishing & Maritime School of Social Work, Dalhousie University, 2004): 33.

[39] Karen Swift, *Manufacturing 'Bad Mothers': A Critical Perspective on Child Neglect* (Toronto: University of Toronto Press, 2002): 12.

[40] RI, Research File, Doc 12, Unidentified newspaper article, "Child Welfare Problems Discussed".

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[70] NSA, RG 72, Vol. 198, File 6, "Nova Scotia Home for Coloured Children", Doc 9.3, Letter to Blois from St. Joseph's Orphanage, March 3, 1917; NSA, RG 72, Vol. 198, File 6, "Nova Scotia Home for Coloured Children", Doc 9.3, Letter to Blois from Halifax Protestant Orphanage, March 9, 1917.

[71] Charles R. Saunders, *Share and Care: The Story of the Nova Scotia Home for Colored Children* (Halifax: Nimbus, 1994): 167.

[72] RI, Research File, Doc 40, "Letter to Blois from NSHCC Matron, Sadie Steen R.N.", July 8, 1921.

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CHAPTER SIX

The Way Forward: What We Have Come to Learn and Understand

Introduction

This chapter shares what we have come to learn and understand through the Restorative Inquiry process about addressing the three central issues:

- Responding to institutional abuse (and other failures of care)
- The experience of care/system of care
- Systemic racism

In keeping with the symbol of Sankofa, which has guided the journey of the Restorative Inquiry, chapters 3, 4, and 5 shared what we came to learn and understand as we looked back at the history and experience of the Nova Scotia Home for Colored Children. Just as Sankofa gathers the egg in its beak, we too have gathered the lessons and knowledge that are important from this past. Yet, the mandate of the Inquiry did not end with finding facts about the past. Sankofa's feet face forward to the future with the clear intention that what was gathered from the past will be brought forward to journey into the future. Similarly, the Inquiry examined the past to discern what matters to address these central issues today and into the future.

This chapter reflects the work that was done within the Inquiry process to bring the lessons and knowledge from the past into the present to examine the central issues as a basis for the journey forward to a better future. Determining how these issues continue to matter to young people, their families, and communities (for the African Nova Scotian community, particularly, and, Nova Scotians generally) was not the end goal of the Restorative Inquiry. We did not seek such understanding, as is common for public inquiries, in order to make findings about the past and the present and make recommendations about what different parties ought to do. As explained in Chapters 1 and 2, this Restorative Inquiry was different in both its approach and objectives. The Inquiry engaged parties together in the work of learning and understanding as a basis to support their work in planning and taking action aimed at making a difference in real time and into the future. The work of coming to learn and understand was a shared enterprise. The process was not designed for the Commissioners on the Council of Parties to gather up the information and make sense of it alone in order to determine what should happen. Rather, the aim was for knowledge to be shared among the parties within the process so they could engage in learning and understanding to make sense of what happened together. It is significant that the Council of Parties itself was designed and selected to bring different experiences and perspectives from the central parties with a stake in the outcome of its work. The Restorative Inquiry design reflects the conviction that shared understanding is key for collective action to make a difference.

The collaborative nature of the Inquiry process produced insights that would not otherwise have been possible through a traditional public inquiry. Commissioners designed, facilitated, and supported bringing parties together through and across multiple processes (which built

upon one another) to develop nuanced understandings of these complex issues. As detailed in Chapter 2, these processes brought together those with personal, practical, and expert experience with the system of care, responses to institutional abuse and other failure of care, and with a depth of experience and understanding of systemic racism and its impact and implications for care. They were engaged together in learning and understanding processes, including, among others, former residents, kids recently in care, front-line staff in Government and community agencies, members of other professional groups connected to the system of care, system and community leaders, caregivers, policy-makers, politicians, and local and international researchers and experts. Sharing their different perspectives and their individual and collective knowledge resulted in rich insights about our central issues, the current approach of the system of care, and the shift required to make a difference on these issues for the future.

The Council of Parties brought knowledge from the various parties and processes together with knowledge from research and experts in support of learning and understanding required for planning and action. This Chapter shares the knowledge we have gained through the process as the foundation for the way forward in planning and action now and into the future.

This Chapter is not simply a report on what we heard from various participants during the Inquiry process. The Inquiry was designed not only to hear from various parties, but also to support parties to hear from one another on the central issues. The aim of these processes was not simply to share information or perspectives; rather, hearing from one another was a first step in the work of coming to understand this information and its significance for the way ahead. Parties were engaged within the Inquiry process in developing shared understanding of what matters and how to mobilize this knowledge to make a difference now and into the future.

In support of this work of learning and understanding for action, the Inquiry undertook research and engaged with international experts (academic and practice leaders). We looked to those with expertise and experience relevant to the central issues of the concern to the Inquiry. Consistent with the commitment of the Inquiry to build relationships as a key mechanism to support change, we sought those from other jurisdictions engaged in similar efforts to shift their approach in similar ways.

This Chapter shares the learning and understanding developed within the Inquiry as a basis for the work of parties to plan and take action together. In this way, it should be read in tandem with Chapter 7, which describes actions, plans, commitments, and recommendations that will shape the way forward on these central issues. We also felt it was important to provide this more detailed and expansive chapter to ground and explain why the elements of Chapter 7 were identified — what it is they are trying to achieve. In this way, we hope this chapter will provide important and helpful explanation, information, and evidence to drive and support the journey ahead to implement the elements described in Chapter 7. However, as indicated in Chapter 7, the actions, plans, commitments, and recommendations identified are not an exhaustive list of

all that will be required to make the changes needed. Nor do they reflect all that was learned within the Inquiry that has implications beyond the three central issues related to the particular mandate of the Inquiry. We thought it was important to share the learning and understanding gained during the Inquiry in a way that can be considered and applied to other issues and circumstances in the future.

The Restorative Inquiry's focus on the Nova Scotia Home for Colored Children grounded and informed reflections on the central issues in the experience of former residents. Doing so placed young people, their families, and communities at the heart of discussions and reflections about care, responding to failures of care, and the significance/impact of systemic racism. This starting point was explicit throughout the Restorative Inquiry processes. For example, during the learning and understanding phase, some processes began by sharing some of what we had already come to understand about the experience and journey of former residents and how it resonated with what we heard from young people with recent experience of the care system. Participants were asked to consider the perspective of young people and families as a starting point for reflection and discussion about the central issues. They were asked, for example, what young people and families would say matters most in terms of care, what does care look or feel like for them? This approach helped focus attention on the perspectives, experiences, and needs of those most involved and impacted as a core reason or purpose for grappling with the central issues. It also revealed where there were gaps in knowledge and understanding from perspectives of those most affected. It was a poignant reminder of why this work matters.

The Need for A Shift

Attention to the experience and needs of young people, their families, and communities, offered a different lens that fundamentally impacted the way participants looked at the issues and their roles and relationships. Participants examined the current systems of care, responses to institutional abuse, and other failures of care and systemic racism focused on the experience and needs of the human beings involved. In the process, a fundamental insight surfaced through research and knowledge gathering and across the various processes and meetings, with different parties individually or collectively, in relation to the three central issues. The insight was that our "system of care" — as it has been broadly understood within the Inquiry to include those formal and informal networks, systems, structures, agencies, organizations, and institutions that are important to the care and well-being of individuals, groups, and communities — is generally oriented by the logic and demands of systems, not humans. As participants reflected on their knowledge and experience of the "system of care," the extent to which it

...our "system of care" — as it has been broadly understood within the RI to include those formal and informal networks, systems, structures, agencies, organizations and institutions that are important to the care and wellbeing of individuals, groups and communities – is generally oriented by the logic and demands of systems not humans.

is "system-centred" rather than "human-centred" became clear. To deepen their understanding of the impacts and implications of this system-centred approach, participants considered the same general question suggested by others as essential for reorienting systems of care, namely: "What would it be like if services were designed to strengthen rather than substitute for the caring capacity of families and communities?"[1] Their reflections revealed that being system-centred has far-reaching effects on the approach, structures, and operations of the system of care that played out in the history and experience of the Home and continue to shape the experience of care, responses to institutional abuse and other failures of care, and systemic racism in Nova Scotia.

The sections in Part 2 of this chapter consider the ways in which these insights have shaped our understanding of each of the central issues and the work of planning and action. However, it is helpful first (in Part 1 of the chapter) to provide a general overarching account of these insights as they emerged through the Inquiry. Indeed, one of the most significant outcomes from the learning and understanding phase of the Inquiry's work was the recognition that there is a common set of factors that shaped the history of the NSHCC and the experience of former residents that continue to play out in the current system of care and responses to failures of care, and have a significant role in maintaining and replicating systemic and institutionalized racism. It is significant that, throughout the learning and understanding phase of the Inquiry, regardless of the central issue that was being examined, the precise focus, or the individuals and group(s) involved, these insights came to the fore. These insights were central to discussions about what happened in the Home; what continues to be relevant about this experience for today in terms of continuing challenges; what gets in the way of addressing persistent issues/challenges; and what is needed to make a difference. The reflections and discussions came back time and time again to the need for a shift in approach — in both thinking and practice — if we are to make a difference on the central issues of the experience of care, responses to institutional failures of care and systemic racism.

The reflections and discussions came back time and time again to the need for a shift in approach – to thinking and practice – if we are to make a difference on the central issues of the experience of care, responses to institutional failures of care and systemic racism.

There was significant commonality across the reflections about the central issues and what needs to shift to achieve better outcomes. However, understanding came more quickly and easily for some parties and participants than others. In part, this reflects the work some have already done to understand such challenges of systems. The Inquiry process was designed to enable participants to bring this existing knowledge and insight into the process. We did not pretend there were no previous and ongoing efforts to examine aspects of the care system and to understand its failures and seek to improve it. Rather, we considered where and how things

were already in the process of changing in response to knowledge about the past. There was a clear acknowledgement that while we want to learn from the history and experience of the Home, we are not coming into a system that is the same as it was when the Home operated. There was reflection, learning, and change underway, even as the Inquiry took up its mandate. Some of these efforts were consistent with the directions and insights that emerged through this process. Others were examined and challenged within the process. For some participants, being a part of this process affirmed their thinking and work. For others, however, it required new and different examination of these issues. The process supported them in acquiring new perspectives and ways of thinking about the system of care.

The knowledge and experience participants brought to the process from their own efforts to shift their systems provided an important foundation for the work of the Inquiry. For example, the transformation process within the Department of Community Services was founded on a recognition of the need to work in more coordinated ways in the provision of care services. Nova Scotia has also been a leader in the development and application of restorative justice, particularly in youth criminal justice and schools. Participants drew upon this knowledge and experience to understand the importance and challenge of working differently. While the Restorative Inquiry invited serious and critical examination of the central issues in our current context, there was a careful and concerted effort to recognize the good work and directions already underway. Participants were encouraged to identify promising elements supportive of the shifts sought, as well as challenges and changes needed. Even for those who easily came to an understanding of the central issues arising from the experience of the Home, the comprehensive and integrated nature of the Inquiry process stretched their thinking beyond the bounds of the systems they worked in, and required them to link up with and consider implications across systems.

In our previous public reports, we shared some of what we learned through the relationship building and learning and understanding phases of the Inquiry about the shift that is needed if we hope to make a difference in the experiences and outcomes for children, youth, families, and communities in Nova Scotia. Government participants identified early in the process the need for a shift. The following chart shares some of what we heard as participants reflected on the current system in light of the experience of the Home.

What we heard from government partners

Structural challenges of systems	Across the sessions, participants acknowledged that social systems failed in properly responding to former residents' experiences of abuse and neglect. There was a general recognition that current systems and structures are not well equipped to meet people's needs. Participants across departments noted that belonging to a department and being responsible solely for their area of work lent itself to not developing relationships with other departments. Participants spoke of the tendency to take a system-oriented approach, and how this approach has historically had a negative impact on the people those systems should be serving—particularly vulnerable and marginalized individuals. Participants spoke of the traditional ways in which Government services have attempted to address complex issues in "reactive" and "siloed" ways. This siloed way of working makes it challenging for department and agencies to do integrated work across Government, and is further magnified when trying to collaborate outside of Government.
Importance of developing trust	Participants acknowledged that many citizens mistrust, and sometimes even fear, the systems that are meant to protect them. Across departments, participants acknowledged that systems must change, and they highlighted interdepartmental initiatives underway to help Government take a more responsive, "person-first" approach. Throughout the discussions, participants identified trust as foundational to healthy and effective relationships. Yet they recognized that institutional trust is low among the public, and Government has much work to do to build trust and better relationships, especially with African Nova Scotian communities. Participants spoke of the need to intentionally create spaces within systems for meaningful dialogue to increase understanding of systemic racism and the ways in which it is perpetuated within multiple systems. They wanted to identify and address areas where racism impacted their work, and they expressed desire to do better.
Representation and data	Across the multiple sessions, participants acknowledged that African Nova Scotians are often over-represented in some systems, yet are under-represented in the multiple professions that comprise each of those systems and public institutions. African Nova Scotians remain particularly absent in senior positions of influence and authority over policies and practices. Another common theme within the circles was the lack of accessible, consistent, and reliable data on the African Nova Scotian population. Policies and standards on collecting race-based data vary across public agencies, leading to inconsistencies and gaps in data collection. The lack of accurate data makes it more difficult to properly assess the present state in order to create effective change for the future.

The following chapter shares more of the insights and reflections from the Inquiry and explores their implications for the experience of care, responding to abuse (and other failures of care), and addressing systemic racism. What Government parties share in the initial stages of the Inquiry pointed to the need to explore these issues more deeply to understand more fully the nature of the shift required.

Part 1: Overarching Insights: From System-Centred to Human-Centred

As indicated above, the Restorative Inquiry has modelled a human-centred approach. As the tag line of the Inquiry indicates, it was meant to model a "different way forward". Doing so revealed for participants the difference it might make to the way things are approached in the system of care, responding to institutional abuse and other failures of care, and systemic racism. As we looked back on the history of the Home and the experience of former residents, the system-centred approach was clear. It was evident in the consistent focus on the Home's institutional governance, operations and own survival, rather than the experience of children in its care, to the engagement and response of various systems to the Home and its residents, depending upon their jurisdiction, mandates, and priorities.

"System-centred" looks at situations and responds within the framework of the system.

From today's vantage point, it is hard not to look at the history and experience of the Home without being frustrated at the failure of those involved to see what was happening. With hindsight we ask: Why didn't the social workers check in with the children? Why didn't the police ask kids why they were running away? Why didn't teachers call about the hungry or scared Home children in their classes? Why didn't the Government respond to the need for support in the African Nova Scotian communities, so parents did not have to send their kids away for care?

The benefit of time and distance makes the issues and the needs seem obvious because we can see the whole context, sets of relationships, and impacts. But preventing similar mistakes in the future requires a deeper inquiry. We must consider why those connected to the Home and the children did not or could not see the whole picture in order to equip ourselves to see clearly where we are now. The process of looking back then helped us understand the impact of the way systems are structured on the way we continue to see and approach issues. The history of the Home points to how the logic, structures, and demands of the systems shaped and determined how people acted and how they understood their roles and responsibilities. Thus, those engaged in the system of care served the imperatives of these systems, often assuming this would result in the greater good.

Through the Inquiry, we came to see the continuing impact of this system-centred approach on the central issues we seek to address. It is important to be clear that by "system-centred" we are referencing the tendency to look at situations and to respond within the framework of the system. We do not mean an approach that is oriented to "systems thinking" or to taking a "systems approach". As we discuss later in this chapter, systems thinking/approach refers to a way of thinking and working that pays attention to the interrelation and interconnections of component parts to a whole. It does not focus on meeting the demands of a particular system, nor does it prioritize the objectives or requirements of a system in determining how to proceed.

Holistic ways of thinking and working are hampered by a system-centred approach that takes system jurisdictions, structures and objectives as the frame within which to understand and address issues. As a result, issues and responses are often carved up in ways that align with the mandate and focus of the systems.

Indeed, systems thinking/approach is more aligned with a human-centred approach as a means of attending to the relational and dynamic nature of human beings. Whereas systems thinking/approach is relational, the system-centred approach is, as discussed below, more reductionist than holistic. Holistic ways of thinking and working are hampered by a system-centred approach that takes system jurisdictions, structures, and objectives as the frame within which to understand and address issues. As a result, issues and responses are often carved up in ways that align with the mandate and focus of the systems. The resulting divisions do not accord with the way issues or people are in the world. They often fail to account for the interconnection of the various component parts and the ways in which the sum may be greater than its parts.

This is not to suggest there is no value in systems. Systems in and of themselves are not the issue. Indeed, it is essential that we develop systematic ways of responding, particularly to complex and nuanced issues and needs like those involved in care. Current systems have been developed over a significant period with the ambition to ensure resources and accountability to meet public goals. The issue is not that there are systems, but the extent to which the structure of those systems has come to dictate and determine why and how we act.

It is important to be clear that this system-centric approach is not merely a function of the people who work within these systems. The insight about a system-centred approach is a claim that those within the system only care about the system and not the people it serves. As explained in our discussion of systemic racism in Chapter 5, systems can structure individual actions in ways that are not reflective of individual intent. Indeed, the commitment and care for the people expressed by those working within the various systems was striking throughout the Inquiry process. This was also true throughout the history of the Home. The failures of care did not generally happen because nobody cared, rather, they failed to appreciate fully what care required. Likewise, the system-centred approach is not a matter of individuals within the system wanting to serve the system and not people.

In fact, the commitments and intentions of those within care systems to those they serve was evident throughout the Inquiry and is reflected in the significant movements in Nova Scotia and elsewhere to "client-centred" policy and practice. However, this focus on being client-centred is not always consistent with the shift to human-centred. It is often aimed at improving or ensuring system effectiveness in meeting client needs. This tests system performance against client satisfaction. This sometimes improves the experience of individuals within the system but seldom addresses the logic or structure of systems that produce negative outcomes for

individuals, families, and communities. It does not reorient systems around human experience, but, rather, seeks to improve how people experience the systems.

Systems were often built and developed then in order to meet public needs and responsibilities in accountable, efficient, and effective ways. But as they have developed and grown, so too has faith in the idea that these systems are the only or best way to proceed — that if we work through the system we will achieve what we need. This faith has also led to the belief that failures are best addressed through reform and adjustment within the systems.

The good intentions of individuals are, thus, generally channelled through the systems in which they work. During the Inquiry, we heard from those at the front line, policy-makers, and lawmakers who talked about the limitations of the current system-centred approach and the need for a change to be more human-centred in the approach to care. This is a shift that would require a fundamental reorientation of systems centred on human beings — designed and structured in ways that would be responsive to the relational nature of human experience and needs.

They also recognized the nature and magnitude of this shift. The logic, structures, and approach of our current systems are deeply ingrained at the level of culture. Shifting culture requires more than new policies, protocols, and practices. It requires a new paradigm and the patience to unlearn old ways of thinking and being, and to build capacity to think and work in different ways. It requires attention to the concept, structure, governance, and operation of systems and institutions. This is because the system-centred approach is reflected at all these levels and, thus, we need to consider the breadth and depth of the shift required to be human-centred. Before considering what such a shift might entail for each of our central issues, it is helpful to provide a fuller consideration of the overall shift from a system-centred approach to a human-centred one.

The following section considers the nature and components of this shift. Part II of the chapter then considers the detailed implications of this shift for the central issues: responding to institutional abuse and failures of care, the experience of care/system of care, and systemic racism.

A. Unpacking the Shift

There are some key characteristics that help differentiate systems that are system-centred from those that are more human-centred. Understanding these differentiations is critical to supporting the shift we seek. It helps identify the elements and aspects of making this shift in the system of care in ways that will contribute to the real and lasting difference we seek.

B. Siloed and Fragmented to Integrated and Holistic Ways of Working

During the Inquiry sessions, participants acknowledged that social systems failed to provide the support and care that children and young people in the Home required and deserved. This included the failure to properly protect former residents and to respond to their experiences of abuse and neglect. Reflecting on the history and experience of the Home revealed how the system-centred approach resulted in the government systems and community networks involved in care — including those related to child welfare, justice, education, and health — operating in isolation from one another. This contributed to the failure to appreciate and meet the full range of the needs of former residents. Participants in the Inquiry recognized that current systems and structures remain ill-equipped to fully respond to care needs. They shared how silos within Government and community continue to make it difficult to meet the holistic care needs of young people, families, and communities, and to respond in timely and effective ways in cases of institutionalized failures of care, including institutional abuse. These difficulties were more pronounced as silos and fragmentation amplified the impacts of systemic racism for the African Nova Scotian community.

As noted earlier, the operating logic of a system-centred approach divides up human needs into separate issues according to the jurisdiction or responsibilities of specific programs, departments, organizations, agencies, or systems. Laws, policies, and practices reflect and reinforce these divisions and the interests and objectives of the various systems. This

fragmentation obscures the impacts and outcomes experienced by individuals, families, and communities. Participants from across departments, public institutions, and community agencies shared that being responsible in narrow ways for their area of work creates barriers and disincentives to building connections with other departments or agencies, and across Government and community. They also recognized that the siloed and fragmented approach of the system has a disproportionately negative impact on the people those systems should be serving — particularly those who are vulnerable and marginalized. As discussed in Chapter 5, this was evident for the African Nova Scotian community in our examination of the history and experience of the Home.

Participants are not alone in these insights. Based on international survey work in 2014, the United Nations found that:

> While social, economic and environmental challenges have significantly changed over the past decades and are becoming increasingly interdependent, government institutions and their functioning in many countries are still greatly shaped by early 20th century models of public administration whereby ministries work in "silos" and issues are tackled through a sectoral perspective. … Effective collaboration among agencies across government (national and subnational) and with non-governmental actors is essential to good governance for a number of reasons.[2]

Their report identified many reasons why working in a collaborative and holistic way is essential. Three of those reasons specifically align with the insights gained during the Inquiry process:

1) No single ministry or government department can effectively deal with issues, such as poverty eradication, that are multifaceted and have multiple root causes. Collaboration is therefore required to effectively address issues that go beyond the capability of any single agency or level of government.

2) …an increase in citizens' expectations for effective, equitable and citizen-centric services demands a shift from inward, disjointed and process oriented organizational structures to highly collaborative frameworks for seamless delivery of services and enhanced development impact.

3) …increased citizen demands for meaningful participation in public affairs and decision-making processes call for innovative governance and collaborative mechanisms that allow people to actively take part in decisions that affect their lives. Citizens (and other non-governmental actors) can be involved in the co-creation of services, including their design and delivery, as well as in finding solutions to societal challenges.[3]

I. Impact of Silos

The system-centred approach focuses on system imperatives that are shaped within a siloed culture that results in fragmentation. This stands as a significant challenge to the development of a culture of collaboration needed to shift to an approach that is human-centred.

> The term "silos" is quite commonly used in literature on organizational performance to describe inwardly focused organizational units where external relationships are given insufficient attention. Breakdowns in communication, co-operation and co-ordination between unit participants and other stakeholders, and the development of fragmented behaviours, are common features.[4]

Bureaucracy is thus generally driven some laudable goals: fairness, transparency, predictability, accountability. The problem is when, as with a system-centred approach, the processes and structures become the measure of success rather than the outcomes they are intended to secure.

Silos are, in part, related to our bureaucratic form of governance. They are not, however, an inevitable part. We do not mean "bureaucratic" in the derogatory way in which the term is sometimes used. The term's original definition, according to sociologist Max Weber, is concerned with maintaining order and fairness through the rule of law, and maximizing efficiency and eliminating arbitrary processes and favouritism. It seeks to achieve these ends through systematic processes that rely heavily on standardized/formal rules and regulations, organized hierarchies, clear division of labour, authority and responsibilities and specialization.

Thus, bureaucracy is generally driven by some laudable goals, such as fairness, transparency, predictability, and accountability. The problem occurs when, as with a system-centred approach, the processes and structures become the measure of success, rather than the outcomes they are intended to secure. In its purest form, bureaucracy is an administrative system aimed at supporting efficient and effective governance. It is run by trained professionals according to clear rules. Weber identified the following characteristics of the ideal (or typical) form of bureaucracy:

- hierarchical organization
- formal lines of authority
- fixed areas of activity
- rigid divisions of labor
- regular and continuous execution of assigned tasks
- decisions and powers specified and restricted by regulations
- officials with expert training in their fields
- career advancement dependent on technical qualifications
- qualifications evaluated by organizational rules, not individuals.[5]

It is easy to see how the increasing specialization related to the division of labour across fixed areas of activity essential to a bureaucratic administrative system could lead to silos. The term "silo" generally refers to the negative consequences that can flow from bureaucracy when there is an insular focus on the specific mission of an area or role.

The term "silo" generally refers then to the negative consequences that can flow from bureaucracy when there is an insular focus on the specific mission of an area or role.

A system-centred approach amplifies the impact of silos. They become much more than a barrier to efficient governing processes. The narrow and insular focus of siloed systems comes to shape views of people, their issues and needs, and the appropriate system response. It leads to fragmentation in what we see and understand and how we respond to human experiences and needs.

Silos can be structured by law, policy, operations, and culture. The extent to which silos are both structural and cultural was reflected by participants in the Inquiry. They identified legal, policy, and practical barriers that create and reinforce silos within and outside of Government, but they also acknowledged that silos are rooted in, and maintained by, human behaviour that is shaped by the culture of systems. Thus, silos reflect deeply held assumptions and beliefs about how things work.

The cultural nature of silos is sometimes referred to in the literature as the "silo mentality". As Frans Cilliers and Henk Greyvenstein explain in their article on the impact of silos on teams, "[o]rganisational silos do not only refer to conscious structures, but also to an unconscious state of mind and mentality that takes on a life of its own."[6] Fenwick et al., point out that "… silo mentality (or "turfism") is a cultural or social phenomenon than (sic) can affect individuals, communities, business units, teams or functions within any organization."[7] Silo mentality is not, however, a matter of individual personality; rather, it is reflective of the assumptions, structures, and operational experience of systems.

> Silo mentality is a consequence of the organizational structure, with departments divided functionally and professionally, and with insufficient communication channels. … [It] can result in the creation of barriers to communication and the development of disjointed work processes with negative consequences to the organization, employees and clients.[8]

Silos can exist both vertically and horizontally within organizations and between organizations.

Silos are a feature of the structure and culture of organizations and systems. Silos can exist both vertically and horizontally within organizations and between organizations. For example, silos can exist between

professional groups or disciplines across an organization, as in the ways in which social workers or lawyers or IT professionals maintain information silos within their professional groups. The same can be true in terms of the silos that separate front-line staff from policy-makers or decision-makers. Silos can also exist along thematic or work area lines, for example, between child protection and education or between youth justice and health. Such silos are sometimes reinforced by departmental structures, although, as we learned through the Inquiry, complex departmental structures raise the issue of silos within departmental mandates as well. Silos can exist between strategic and operational levels of government or other organizations.

Silos are not just a feature of government. They also exist between government and non-governmental agencies and community. Interestingly, we came to appreciate that silos and fragmentation are also reflected at the community level. In part, this reflects the influence of the system-centred approach on community organizations and opportunities. Competition to carve out turf, and the recognition, authority, and funding that follows, often significantly depends on aligning with government mandates, systems, structures, and priorities.

Silos, both structural and cultural, involve a lack of communication, information sharing, and collaboration. It is unclear whether the lack of communication and collaboration results from a lack of trust or shared vision and responsibility, or whether it is the cause of it. Once silos are in place, however, there seems to be a cyclical relationship in which these factors are mutually reinforcing. The result is that silos are deeply imbedded in the way in which people think and act. The result is fragmented ways of thinking and working, as we saw clearly in the history and experience of the Home and heard from participants how it continues within and across systems and communities today.

This issue of silos and fragmentation has received significant attention in the corporate and business world for their inefficiencies in production and impact on organizational and workplace climate. While efficiency and workforce climate and culture are not unimportant to making a difference on our central issues of care, responses to institutional failures and systemic racism, they are not the primary concern with respect to silos. Through the Inquiry, we have come to understand the impact of silos and fragmentation on those individuals, families, groups, and communities that systems aim to serve and support. In the business context, this concern is expressed as "customer satisfaction."

> The fragmented and 'siloed' government structure complicates easy communication among persons in each silo, which might result in customer dissatisfaction. Service delivery channels might not be developed based on a shared vision and could have different objectives.[9]

The notion of customer or client satisfaction does not fully capture the impact of silos in the context of care. We heard during the Inquiry that the impacts and implications are more serious in this context, going to the core of people's trust in the public institutions and systems they rely on for care. The interests at stake in the context of care and with respect to systemic racism are fundamental in nature — they are about the well-being, inclusion, and dignity of those affected. As such, the Organisation for Economic Co-operation and Development (OECD) recognized that such "divisions come at a cost. The issues and challenges facing local communities are often complex and require a holistic approach to be resolved."[10] The United Nations Department of Economic and Social Affairs, Division for Public Institutions and Digital Government assists countries on transformative governance and innovative public administration and services. They have paid particular attention to the issue of silos and fragmentation in their efforts to support more integrated governance. They have noted that,

> [m]any countries struggle to deliver integrated, interconnected and cross-sectoral services due to sectoral specialization or "departmentalisation". This often results in partial solutions that are inadequate from a broader sustainable development point of view.[11]

They pointed to compelling and instructive examples from around the world illustrating the impact of silos in dealing with, and responding to, a wide range of complex human issues ranging from public safety to financial systems.[12] This makes clear the issue and impact of silos and fragmentation is not unique to the system of care.

II. Overcoming Silos: Towards Integration

Participants in the Inquiry saw the role that silos and fragmentation played in the history and experience of the Home and considered the ways they continue to present a challenge to providing care, responding to institutional failures of care, and dealing with systemic racism. This concern with silos and fragmentation, and recognition of the need to work in more integrated and holistic ways, resonated with existing initiatives in Nova Scotia aimed at taking a whole-of-government approach or increasing horizontal governance. In this respect, Nova Scotia reflected a broader international trend as noted by the United Nations:

> In recent years, there has been a change in emphasis away from structural devolution, disaggregation, and single-purpose organizations towards a more integrated approach to public service delivery. Variously termed "one-stop government," "joined-up government" and "whole-of-government," the movement from isolated silos in public administration to formal and informal networks is a global trend driven by various societal forces such as the growing complexity

> of problems that call for collaborative responses, the increased demand on the part of citizens for more personalized and accessible public services, which are to be planned, implemented and evaluated with their participation, and the opportunities presented by the Internet to transform the way the government works for the people.[13]

A whole-of-government approach is aimed at breaking down silos in government and replacing them with mechanisms and structures aimed at greater integration. The United Nations notes the "distinguishing characteristic of the whole-of-government approach is that government agencies and organizations share objectives across organizational boundaries, as opposed to working solely within an organization."[14]

While a whole-of-government approach addresses the need for integration within and across government, it does not address how government is siloed from other organizations in the civil sector and the community. The idea of "collaborative governance" highlights the attention needed to overcome silos and support integrated relationships between and among government and community.[15]

The whole of government (WG) approach:

The WG approach involves a set of processes aimed at making agencies work together across portfolio boundaries to achieve shared goals and integrated responses to the issues of policy development, service delivery, program management, etc. In the program management area, WG aims at achieving greater harmonization among actors, and across analysis, planning, implementation, management and evaluation activities. While many collaborative activities may not be complex, WG is usually associated with significant challenges like public health management, homeland security, natural disaster response, etc. The benefits of the WG approach are: delivery of holistic responses to policy issues, particularly the problems that transcend agency boundaries; providing administrative solutions to the problem of departmentalism; providing incentives for departments to look beyond their narrow interests; enabling seamless services; and reducing duplication across departments.

As the WG approach is deeply transformational, it requires dynamic capabilities for transitioning from one stage to another. … Leadership is a major determining factor for successful WG initiatives, implicitly expressed through collaboration, structure, processes and participants. However, like other collaboration forms implementing the WG initiatives has to over come the differences in organizational cultures, structures and priorities.

Adegboyega Ojo, et al., "Whole of government approach to information technology strategy management" *Information Polity* 16 (2011) 243–260 at p. 249

In both cases, whether within government or between government and community, it is clear that overcoming silos and fragmentation in favour of integration and holism requires more than better coordination. To be sure, better coordination of services, streamlining processes, providing navigation supports or single-portal access to government would go some way to reducing the impact of silos and linking up otherwise fragmented pieces. However, it fails to address the underlying causes of fragmentation and to shift in ways that will support integrated and holistic ways of working required to be human-centred.

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Silos and fragmentation involve more than logistical or technical barriers and they require more than a practical fix. Silos are rooted in culture and reflective of a mentality or way of thinking and working. Overcoming silos then requires a culture shift. Such a shift must be rooted in a different understanding of why we are doing things — one that is about more than the benefits of system efficiency and effectiveness. It is important then, that "whole-of-government is not an end in itself but rather a means to achieve goals in a collaborative manner."[16] The same is true for collaborative governance. It must be guided by an appreciation of the holistic, integrated, and relational nature and needs of human beings that drive the design and approach of the system of care. A shift in the understanding of why — the purpose of governance in the context of care — will offer the shared vision and commitment needed for a culture change.

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The existing experience with whole-of-government and other efforts to coordinate or integrate service delivery in Nova Scotia and elsewhere have been instructive within the Inquiry process. Participants in the process shared concern about how to ensure that such initiatives result in significant change. The United Nations report on whole-of-government expressed similar concerns:

> Although there is widespread support for the principles of whole-of-government, there remain major problems in implementing the concept related to issues of ensuring accountability for publicly funded activities and overcoming the 'silos' created by departmentalism or vertical styles of management while avoiding fragmentation and lack of coordination. Knowledge and attitudes of public servants to the whole-of-government vision are also seen as critical elements to its success.[17]

International experience also suggests, though, that building parallel structures or institutions to serve as the mechanism for collaborative or integrative work is not effective to overcome silos.

> Creating parallel institutions would also be more of a throw-back to traditional hierarchical governmental organization. The practice of whole-of-government mainly requires the establishment of networks and partnerships within government agencies, as well as with other key players, such as those in the non-government sector.[18]

The OECD also cautions that while building connections is essential to overcoming silos, the existence of such networks alone will not bring change at the fundamental level required.

> … Such strategies often set out broad aims and objectives, and appear to 'say all the right things' about working together to achieve common goals. More rarely, however, do they contain a proper implementation framework for how they are to be achieved, containing detailed agreements on joint actions, budgets, timescales, etc. Too often, such strategies become wish lists with many different objectives but no consensus on the most important cross-cutting issues which need to be worked on together to achieve real economic growth and inclusion.
>
> …The problem is accentuated because local strategies, and the mechanisms set out for their delivery, are not always legally binding. In many cases, partners feel free to participate in collective strategic planning but not necessarily obliged to translate the agreements into concrete action.[19]

Just as silos exist at different levels and in different directions — horizontal and vertical — so too will integration efforts be required at different levels and across different relationships. It requires attention at the levels of law, policy, practice, and culture. There is a clear need to address the knowledge, skills, and attitudes of those within the system to ensure their engagement and capacity to overcome silos. On the basis of 40 case studies, the United Nations offered the following conclusions regarding the human resources essential to integration and working in holistic ways:

> First, strengthening of existing collaborations in order to create new ones; interoperability (vertical or horizontal cooperation) is easier to implement when the actors are used to collaborating. Even then, it takes time.
>
> Second, collaboration yields better results than imposition: "things change naturally and it is not necessary to inflict them. Changes impact the heart of organizations, practices and culture. This can only be done gradually."[20]

This resonates with the experience of the Restorative Inquiry. The process was careful to build upon existing collaborations and connections as we brought parties into the process. We also took significant time to build relationships and to facilitate a process committed to learning and understanding, and supporting participants to work collaboratively to discern what plans and actions were needed. We have learned through this process that bringing about real and lasting change requires attention to relationships and the time to nurture and develop them. Yet, we also recognized the risk of inertia if things move too slowly. This is, perhaps, particularly difficult when the task involves systems and structures that are often resilient and resistant to change. It is also sometimes hard to discern the difference between the good faith needed to take time to do things carefully and intentional effort to frustrate or resist change. The United Nations acknowledged this issue in their report:

> …it is well known that collaboration among agencies and government levels is not always a simple task. The greatest challenge to the adoption of whole-of-government, which fundamentally rests on increased collaboration, is resistance to change among government actors. Scepticism about integration of information and data privacy; lack of trust among agencies; non alignment of motivations among agencies or worst competition among ministries and agencies; different vision, priorities and goals among government agencies are all factors that can greatly inhibit the success of a whole-of-government strategy.

As noted earlier, attention to the important role of those working within systems should not be taken to suggest that the issue of silos is about individual behaviour. Silos are clearly a systemic issue. It is about the culture of the system that shapes and incentivizes behaviour of people who work within or come into contact with these systems. A clear example that emerged within the Inquiry was lack of communication and the protection of, and refusal to share, information. So significant is this characteristic of silos that they are sometimes referred to as information silos. This issue was identified often by participants within the Inquiry as a significant barrier to working in more integrative ways. Close examination of this issue reveals some actual legal and policy barriers to sharing information exist, but, to a greater extent, the barriers were a product of perception.

Silos are not a matter of individual behaviour… It is a matter of the culture of the system that shapes and incentivizes behaviour of people who work within or come into contact with these systems.

As we probed this issue further within the learning and understanding phase of the Inquiry, it became clear the extent to which these interpretations and perceptions reflected something real about the experience and culture of systems. It was not a matter of individual "turf" or holding information to be protective or powerful. As we came to understand the issue, it related

Overcoming silos requires more than instructions or training, more than policy changes and new structures. It requires a concerted effort to establish relationships of trust and a culture of collaboration. This requires significant leadership that models such relationships and supports a culture shift.

to a lack of understanding and of trust across systems coupled with the significant burden of accountability for errors and failures on individuals within the system. Once this is understood, overcoming silos requires more than instructions or training, more than policy changes and new structures. It requires some of all of this, but as part of a concerted effort to establish relationships of trust and a culture of collaboration. This requires significant leadership that models such relationships and supports a culture shift.

This kind of change requires a transformation of the government as a whole, which calls for a holistic vision of development, new government institutional arrangements, leadership and human resources' capacities, and mechanisms for greater collaboration among government agencies and departments and with other governance actors through a whole-of-government approach and collaborative governance. A new vision and model of collaboration among governance actors, in turn, calls for a paradigm shift in the role of the public sector whereby governments:

- Become catalysts for change instead of mere service providers;
- Facilitate networked co-responsibility by empowering communities to take part in the solution of their own problems;

…

- Operate in an integrated and collaborative manner across departments and agencies;
- Become pro-active instead of reactive anticipating problems;

…

- Transform mind-sets and build a culture of collaboration, transparency and accountability.[21]

C. Accountability to Responsibility Focused

Accountability to Responsibility Focused					
Blame/Liability focused to Problem Solving/Solution Focused	Individually to Relationally Focused	Risk Adverse to Need/ Harm Focused	Defensive to Learning (Reactive/Proactive to Responsive/ Proactive	Compliance to Responsive Regulation	Transactional toTrusting Relationships

Through the learning and understanding phase of the Inquiry, it became clear that the shift from a system-centred approach to a human-centred one requires overcoming silos and fragmentation and establishing more integrated and holistic ways of thinking and working. Such a change is cultural in nature and will take intentional effort and time. It also requires attention to all of the different factors and elements that contribute and reinforce the current system-centred, siloed, and fragmented approach. One of those elements that drives the system-centred approach and contributes significantly to silos is the focus on accountability. Through the Inquiry, we heard about the concern with accountability that is focused on finding the individual (person or institution) to blame for what has happened and often results in disciplinary or other measures taken against the parties involved. We discussed the nature and impact of this approach in the context of responses to institutional abuse in Chapter 5 and examine the issue further in this chapter.

It is important at the outset, though, to have a sense of how the focus on accountability plays into the system-centred approach and the culture of silos. It is also essential to understand how the notion of accountability feeds a number of other elements and commitments within the current system. Thus, it is important to provide an overview of the way the focus on accountability and its related expressions or elements feeds into the system-centred approach and to understand the shifts needed to be a part of the overall move to a human-centred approach.

Accountability is an important value for systems and organization, perhaps particularly with respect to the bureaucracy responsible to administer public institutions in the public interest. Accountability mechanisms are intended to ensure responsibility to the public is met so that government is "for the people" and not in the interests of those running the system. Accountability is, in this way, essential to democratic and good governance. However, as discussed in Chapter 5, accountability has had significant negative impacts when focused on blame and liability for the past and at the level of the individual (person, unit, department, organization). Accountability, approached this way, often serves as a means of apportioning blame. Often lost in the process is a focus on responsibility in the sense that goes beyond accountability for the past and

Often lost in the process is a focus on responsibility in a sense that goes beyond accountability for the past and considers what happens next – what is required to live up to one's responsibilities.

considers what happens next — what is required to live up to one's responsibilities. Responsibility is a helpful concept because it is often understood as both individual and collective and can be shared in common (as opposed to the way we often think of apportioning shares of accountability or blame). Through the Inquiry, we have come to understand the importance of a shift from a focus on accountability to one on responsibility in this way. The difference, or shift, we are trying to convey is not simply a semantics one: it is about more than the way we talk about things. As discussed, it is a shift in the way we think and how we do things that will ultimately impact what we do. The shift from a focus on accountability to responsibility reflects a set of related changes in attitude, behaviour, and actions needed if we are to take a more human-centred, integrated, and holistic approach. These elements or aspects provide a fuller picture of what is entailed in the shift from accountability to responsibility.

I. Blame/Liability focused to Problem-Solving/Solution Focused

As discussed above, and in Part III of Chapter 5, one of the key characteristics of accountability is the backward-looking focus on ascribing blame or fault as the basis for determining the punishment or liability that should follow. Iris Marion Young refers to this as the "liability model." She explains that it seeks liable parties for the sake of doling out punishment or compelling compensation or redress. The practices conforming to this model, she notes, are generally backward focused. As a result of this liability model, Young concludes our current criminal justice practices, focused as they are on individual culpability, are inappropriate for dealing with systemic or structural injustice. As discussed in Part III of Chapter 5 of this report, the same could be said for processes in the civil justice system, as they are similarly focused on fault and liability.

Shifting to a human-centred approach requires a reorientation of focus from "naming, shaming, and blaming" to problem solving aimed at finding solutions. A problem-solving focus requires identification and participation of those with knowledge and responsibilities. Problem solving requires attention to what has happened in the past, but with a view to figuring out that needs to happen to "make things right" now and in the future. Thus, problem solving is inherently future focused.

II. Individually to Relationally focused

The accountability focus of the system-centred approach is then individually focused both in terms of its consideration of causes and the bid to determine the party or parties to blame or at fault. One of the results of this approach is that it tends to produce more simplistic stories of what and why something has happened. The imperative to sort out who is to blame for what obscures more complex and nuanced stories about what happened. The focus on blame results in stories focused on individual causes and protagonists to explain what happened.

As Young notes, another problem with the application of this individual responsibility is that it can function to undermine collective responsibility by suggesting that the actions of the

individual caused harm to an otherwise acceptable state of affairs, that the *status quo ante* was just.[23] Out of necessity, determining individual fault or blame focuses on individual acts and impacts often ignoring the underlying or existing contexts, causes, or circumstances. If such factors are considered in an accountability process, it is generally to shift or reduce blame for what happened. In the process though, the relationship of systemic and structural causes, and the complex collective responsibility for these circumstances, are often ignored or misrepresented.[24] The focus solely on individual actors and/or actions as causes worthy of blame and liability leaves little or no room for the complexity of interconnected contexts, causes, and circumstances and the interrelated and shared responsibilities at individual and collective levels. This individualized approach also shapes the substantive approach and work of systems in the care context. As noted by Burford, Braithwaite and Braithwaite, and discussed later in this chapter, "[i]ndividualized, case management and casework-driven processes in the human services have lent themselves to silencing of grievances, distancing of workers from clients and to separating them from allies in their social networks."[25]

The focus solely on individual actors and/or actions as causes worthy of blame and liability leaves little or no room for the complexity of interconnected contexts, causes and circumstances and the related interrelated and shared responsibilities at individual and collective levels.

As noted in Chapter 1 of this report, our current approach to accountability was unable to deal with the complex story of the Home. Its failure was one of the significant factors underlying the restorative approach to this Inquiry. The complexity of causes and the roles of various parties individually and collectively required a relational analysis.

III. Risk Adverse to Need/Harm focused

As described in the sections above, the siloed and fragmented nature of the current system-centred approach is reinforced by the focus on accountability. The blame and liability orientation that comes with it results in significant concern and attention to risk. Indeed, systems have built-in mechanisms to minimize, avoid, or respond to risk as an overriding value. Perceived and assessed risk have become significant driving forces informing decision making and practice. Legal and reputational risks have become particularly significant in calculating and determining the responses of public institutions to issues. The emphasis on these risks reflects the focus on systems and risks to systems. It also impacts the behaviour of individuals within the system who become "risk avoidant" — unwilling to take risks to protect the system and/or their place within it. This focus on risk and the overriding interest in avoiding risk often distracts attention from the needs or harms of the people involved. Indeed, sometimes needs and harms are perceived and responded to as risks for the system rather than as the central concern or interest of the system. The risks posed or experienced by people in relation to their needs and harms are not often a part of the risk calculations driving systems.

IV. Defensive to Learning (Reactive to Responsive/Proactive)

A system-centred approach, with its overriding concern for risk avoidance, conditions those with decision-making responsibility to react to risk or problems rather than to respond to needs and harms. When blame/fault is identified and ascribed to systems, those systems generally react to the related risk by defending their role and their actions. Protection and defence of systems often shifts the target of blame to individual actors or faulty processes — looking for the "bad apple" — and, in the process, limits wider examination of the circumstances, conditions, and contexts within the systems and institutions that allow situations to occur and continue. This further incentivizes defensive stances of individuals within systems. Being defensive leads one to justify actions and outcomes rather than examine them. A defensive reaction is generally counterproductive to learning and, thus, to change and improvement. Through the Restorative Inquiry, we have come to appreciate how essential a learning approach is in responding to complex human problems.

A defensive posture not only limits capacity for reflection and learning, it also leads to reactive strategies. When one is on guard or in a protective or defensive mode, one reacts to threats (real or perceived). Reactions are typically quick and often instinctive or reflective of established protocols and practices. By contrast, complex human issues typically require more consideration of tailored responses including attention to what might be needed in terms of proactive efforts aimed at preventing further or future issues.

V. Compliance to Responsive Regulation

To minimize risk and protection against blame/liability, those within systems often seek security in rules and procedures. In reaction to problems or issues, those responsible often look to change or establish rules or procedures and/or instill compliance measures to reduce future risk. This is not to suggest that rules have no role or value. It is the use of rules, not the fact of rules, we are concerned with here. Specifically, it is the resort to rule as the means through which to gain command and control over individuals in service of system imperatives. This approach within systems was the subject of significant discussion and reflection during the learning and understanding phase of the Inquiry. We learned how accountability mechanisms, focused backwards on blame and liability, generate defensive and protective behaviour and heighten risk avoidance resulting in a focus on compliance with rules and formal regulation. The current system-centred approach relies on formal rule-based regulation. Regulation by fixed and predetermined rules makes it a challenge to be responsive to varied circumstances. In place of rigid and inflexible formal regulations reliant on rules and procedures, a responsive regulatory approach, guided by principles, is needed in the shift to a more human-centred approach.[26]

Burford, Braithwaite and Braithwaite, based on defining work in the field, explain responsive regulation is about "being responsive to those we are regulating; being responsive to the

environment; responsive to democratic impulses – seeking to respond to the needs articulated by the regulated, and then, perhaps most importantly of all, being responsive to the history of encounters between the regulator and the actor on the other side of the fence."[27] In the case of care, this often means a recognition of relationships between young people, families and communities, and the government systems they are engaging with that are marked by systemic inequality, including, in some cases, systemic racism.

Burford, Braithwaite and Braithwaite explain that "responsive regulation builds from a framework of empowerment and aims to engage actors in cooperating with the development of the details of how their obligations will be met even when their compliance could be required."[28] They advocate an approach to regulation they describe as restorative-responsive, bringing together restorative justice and responsive regulation to offer a relational approach to just regulation.

> In the face of increasing evidence that despotic, authoritarian or simply invisible powerful hands control matters in everyday life for most citizens, the marriage of restorative justice and responsive regulation aims to encourage both the sense of possibility and responsibility. Both are vital components of innovative, purposeful and meaningful responses to complex human services challenges.[29]

It is their contention that this regulatory approach will,

> …more fully realize what it means for human services to be collaborative, to be offered in partnerships, to engage thoughtfully with complex problems, to avoid blame and retribution and reward success, citizenship and ethical behavior. It does this by re-centering government's role as but one strand in the production of well-being and security. Networked relations hold promise of improving standards relating to security, accountability and well-being while promoting healing and inclusivity in decision making as building blocks of empowerment practice.[30]

VI. Transactional to Trust Relationships

The shift from a system-centred approach to a human-centred one depends on a move from transactional relationships to those founded on trust. Valerie Braithwaite points to the significance of trust in making this shift:

> A further impediment to a responsive regulatory and restorative justice approach being pursued by governments is low trust. Low trust expressed by citizens towards their democratically elected governments is well documented globally, widely discussed and appears persistent, if not on a downward trust trajectory (OECD, 2013). Governments become sensitive to public exposure of any material that suggests "untrustworthiness" of government may be justified.

> So less widely acknowledged is that governments have low trust in citizens and want to exercise control over public discourse. Trust is relational and so lack of trust works both ways.[31]

Trust, then, needs to mark relations at all levels: interpersonal, institutional, and systemic. Forming and maintaining such relationships requires attention to the structures and processes that shape such relations. Lack of trust is bred by a lack of knowledge and understanding, and, at the same time, it reinforces silos that prevent such knowledge by protecting and guarding information to avoid vulnerability to scrutiny and criticism.

The importance of trust was a constant theme across all of the processes and central issues of the Inquiry. From police to social workers, from deputy ministers to lawyers, participants spoke of the need to build trust with communities they serve, especially among marginalized and vulnerable communities. Community members also spoke of the essential nature of trust. The dynamics of trust were explored through the learning and understanding phase — both at interpersonal and institutional levels — and the impact these dynamics have within the system of care and more broadly.

Through the process, it was clear that trust is undermined by the transactional nature of relationships in the regulation of human services. Building trust requires moving beyond hierarchies, whether institutional, disciplinary, professional, positional, or social. On this point, the United Nations identified that building trust within government requires overcoming "existing power structures and build[ing] a culture of cooperation. Department/agency heads may fear losing power over human and financial resources and thus fail to make them available for advancing one-stop government. Building trust among departments and agencies is therefore key…"[32] This resonates with what we heard from government participants in the Inquiry. Participants spoke of the traditional ways in which government services have attempted to address complex issues in "reactive" and "siloed" ways that makes it very challenging for departments and agencies to do integrated work across government, and are further magnified when trying to collaborate outside of government.

Important to ensuring just relations is inclusion of others who have some care or concern for the justness of the relations and outcomes.

As discussed earlier in this Chapter, also key is a move from the formal rigid regulatory approach that Braithwaite calls "technocrat regulation" to regulation that is relational and responsive. This approach to regulation can foster trust through its attention to just, relational arrangements.[33] Important to ensuring these just relations is inclusion of others who have some care or concern for the justness of the relations and outcomes.

The significant role of "third parties" as a way of moving beyond the bipartisan, often adversarial, construction of relations in human services or systems is recognized in the idea of "tripartism."

> Tripartism was originally invoked to highlight the limits of transactional relationships between the state and business. With the worst excesses of business-state corruption almost any third party might help in exposing the corruption to the disinfectant of sunlight. The presence of third parties, which most often means a number of them, especially when confronting complex problems, increases the likelihood of cooperation and compliance with obligations to reduce domination. Regulation can too often be captured or corrupted by the power of money and other dominant sources of influence like lobbying. The more complex the regulatory environment and the higher the stakes, the more likely transactional approaches will fail. Engaging other actors who have a stake in the outcomes can offset the power dimensions.[34]

This demonstrates the significance of inclusive and participatory processes that support the relationship building required for trust. This shift will require, as Burford, Braithwaite and Braithwaite identify,

> …considerable investment of time in relationship building. The undervaluing of time and human labor does not square well with the needs of the human services for building trust that is so essential to reciprocity, security and relational healing whether that is at the level of engagement with human services or in the governance of these services. The transactional commodification of time as labor that underwrites the investment in relationships bumps against the needs of responsive and relational human services.

D. Professionally Controlled to Shared Governance (community & families)

A system-oriented approach centres those with formal authority and in control of systems. It gives power to those who govern the systems. In a bureaucratic system of governance, which marks our modern western democracy, that role and responsibility has been given to professionals. One of the marks of our system-oriented approach then is the significant role professionals play in terms of decision-making. Systems are professionally controlled by subject matter and administrative experts. This contributes to the transactional nature of relationships with and within systems. The role of professionals has its origins in the goal of ensuring fairness and reducing favouritism and bias in public institutions. These remain important values to preserve. However, the control of professionals to the exclusion of those people, groups, and communities subject to their decision making has contributed to a lack of trust in systems and an alienation of systems from those they impact. As a result, Burford, Braithwaite and Braithwaite point out that systems "have shown immunity to challenge from the very persons, families, communities and cultures most affected."[35] A human-centred approach

The shift to a human-centred approach does not disregard the value of professionals but considers their role and responsibilities within the context of shared decision-making that de-centres professionals in order to ensure voice and power of those affected.

requires a shift to shared governance that is inclusive in meaningful ways of those governed. This does not negate the need for significant support and investment of time by those working within systems. Their skills and knowledge are essential to the success of shared governance of human services. The shift to a human-centred approach does not disregard the value of professionals but considers their role and responsibilities within the context of shared decision-making that de-centres professionals in order to ensure voice and power of those affected. Burford, Braithwaite and Braithwaite see this as a key shift:

> …in governance from a top-down command and control emphasis to a state that de-centers, or perhaps re-centers regulation to better match conditions of high complexity. This involves new partnerships between government and non-government actors in hybrid, pluralistic arrangements, some self-directed, others part of relational networks that are negotiated.[36]

It is clear that the shift to shared models of decision-making and in the role of professionals will also require a shift in the ways in which time and labour are valued in support of human services. We heard this from professionals and other front-line workers from various systems and in the community. Across the board, they expressed frustration that they were not able play their role in care as fully and effectively as they wanted because their time was spent more on meeting transactional requirements of the system than on building relationships essential to be able to meet the needs of those the systems are meant to serve.

Part 2: Implications of the Shift for Central Issues

These insights about the shift that is needed and what it entails emerged during the initial part of the learning and understanding phase of the Inquiry. The exploration of the history and experience of the Home for Colored Children revealed insights into the central issues of responding to institutional abuse (failures of care), the experience of care, and systemic racism. These insights were grounded in the experience of former residents as understood first through the first voice of former residents shared through the settlement process and within the Inquiry. What former residents shared and what we came to learn of the experience throughout the history of the Home was foundational to our work and underpins much of what is in this report. In the initial sharing circles of the Inquiry, former residents reflected on their experience in a number of areas as described in Chapter 2. Some of what we heard from them made clear the need for the shift to a human-centred approach. For example:

What we heard from former residents

Helplessness and isolation	Former residents said they felt a sense of helplessness at the Home as the abuses they witnessed and experienced went unchecked and unreported. They reported that some staff members pitted residents against each other and forced children to fight their friends, further damaging any bonds they had and increasing their feelings of isolation. Family relationships suffered as siblings were often separated with no explanation or information from social workers. Some residents said they lost track of their brothers and sisters for years before reconnecting, often as adults.
Systemic neglect	Many residents expressed that even the process of entering care left them traumatized; police or social workers told them they were "just going for a drive" or "going to the store" before dropping them off at the Home with no preparation or explanation of what was happening. In care, former residents recalled that they rarely received visits or check-ins from social workers. They said they almost never had a chance to speak with social workers away from Home staff. Under these circumstances, residents felt they had no safe outlet to tell anyone what they were experiencing without fear of further harm. Many former residents felt the adults in their lives turned a blind eye towards their suffering. For some former residents who transferred out of the Home, this feeling continued in foster care, where they also experienced neglect and abuse. Some said they were threatened to keep quiet unless they wanted to be "sent back to the Home."
Silence and stigma	Many residents felt the stigma of being "Home children" followed them at school and in the broader community. They believe that teachers and educators who noticed their health or behaviour issues, and police who regularly returned runaways to the Home, also knew, to some degree, that things were not right at the Home. Many felt abandoned by the systems designed to help and protect them. Many former residents believe a culture of silence contributed both to their abuse as children, and to the difficulties they faced in coming forward as adults.
No preparation for adult life	Former residents spoke of the hard transitions they faced when they "aged out" of care. They were given little to no preparation for independent living. Former residents have encountered poverty, homelessness, mental-health issues, post-traumatic stress, and other difficulties in their adult lives.
A desire to make a difference	Some residents have reflected that even during difficulties at the Home, small acts of kindness from some staff, teachers, or community members helped them hold on to hope and develop resiliency. They also spoke of how their experiences as children gave them a resolve to create a better life for their own children.

Through research, reflection, and dialogue processes (as described in Chapter 2), parties came to understand more deeply the ways in which the system-centred approach to care and responses to abuse shaped the history and experience of the Home and contributed to the impacts of systemic racism. Understanding the history and experience of the Home and the extent to which the insights and lessons gained continue to be relevant revealed the need for a shift as described in the previous section.

System-centred	Human-centred
Siloed and fragmented	Integrated and holistic
Accountability focused	Responsibility focused
Blame/liability focused	Problem solving/solution-oriented
Defensive/reactive	Learning/responsive/proactive
Risk adverse	Need/harm focused
Formal regulation – procedural and compliance focused	Responsive regulation – principle-based
Transactional relations	Trusting relationships
Professionally controlled decision-making	Shared governance and inclusive decision-making (community and families)

Once the shift was identified, the Inquiry processes dedicated considerable time to exploring the implications of the shift from system-centred to human-centred for each of our central issues: for the care system, for responding to institutional abuse (and other failures of care), and for addressing systemic racism.

This focused attention deepened learning and understanding about the central issues and the nature of the shift required. These processes provided an important opportunity for those with a stake in the shift (those with responsibilities and interests) to come together to develop the shared understanding required for collective action. The work to come to understand the effects and impacts of a system-centred approach on care, on the responses to institutional abuse and failures of care, and on systemic racism in Nova Scotia was essential to determining the path forward towards a human-centred approach as detailed in Chapter 7. It was also foundational to the

planning and action that has already happened through the process. The following sections share the learning and understanding achieved within the process and explain why the commitments, plans, actions, and recommendations made in Chapter 7 are identified as part of the way forward.

This chapter proceeds in a similar way to the rest of the Report by addressing each of the central issues that have structured the Restorative Inquiry's work. This chapter begins where the analysis of the experience of the Home and of former residents on their journey to light left off in Chapter 5 — addressing the central issue on responding to institutional abuse (and other failures of care). In many ways, this reflects what first brought the former residents to seek this Inquiry process. The impetus for the Inquiry was the call to respond to the abuse experienced by former residents within the Home. The effort to understand this abuse made clear the need to understand the abuse in the context of the overall experience of care and the care system. It was also evident that it was not possible to understand either without attending to the significant and structuring role of systemic racism.

It is important to remember that while this chapter considers each of the central issues in turn, we do not view them as distinct or separable. Rather, as discussed in Chapter 2, the central issues are overlapping, layered, interconnected, and integrated. As common themes emerged in the learning and understanding phase, the Council of Parties approached each central issue with clear and careful attention to the layered, integrated, and complex nature of the issues and the responses needed.

A. Shifting the Response to Institutional Abuse and other Failures of Care

The history and experience of the Home in terms of responding to institutional abuse is, in some ways, more recent. As detailed in Chapter 4, this Inquiry is a part of the response to abuse sought by former residents when they came forward as adults to share what happened to them as young people. Our proximity to the response to former residents' allegations of abuse means that less has changed. This makes it easier to translate the lessons from this part of the history and experience with the Home and come to understand how it continues to be relevant today. This means that much of the analysis in Part 3 of Chapter 5 regarding the response to historical institutional abuse reveals issues and characteristics of our current responses. More attention was required, however, to examine and transfer the lessons from the response to institutional abuse and failures of care as they were experienced by residents of the Home at the time they were living there. As with the other central issues related to care and systemic racism, drawing out the lessons from the past required careful consideration of the current context and experiences to discern where and how issues remain and the relevance of lessons from the past regarding the shift that is needed.

This does not mean nothing has changed or improved with respect to the response to abuse over the course of the years the former residents fought for justice. Through the Inquiry process, it became clear that there have been changes supporting a shift towards a human-centred

approach. Indeed, some of these changes resulted from learning about the experience with the Home and applying that knowledge to make a difference in real time. However, the Inquiry process also revealed the extent to which the approach that marked the former residents experience in response to their abuse remains unchanged in significant and important ways from that described in Part 3, Chapter 5 of this Report.

There continues to be a system-centred approach that is adversarial, individualized, concerned primarily with the breach of law/rules, backward-focused, and concerned with blame and liability.

I. Responding to Historical Institutional Abuse and Failures of Care

Part 3 of Chapter 5 provides a comprehensive picture of what we have come to learn and understand about our current responses to historical institutional abuse and failures of care. By historical, we are referencing claims of abuse that come after the situation or circumstances of care are over or changed. This is contrasted with the responses to such claims or concerns while care is ongoing or underway. The difference is a temporal and situational one. Although it does not require significant passage of time (it need not be long past history), it does mean the alleged abuse has happened and is not ongoing. Further, it typically refers to cases where the situation or circumstances of abuse (of failure of care) have materially changed.

Through the Inquiry process, various parties — former residents, justice system stakeholders (including police, lawyers from the Government and the private bar, policy makers and other system leaders) and those from community — reflected on the response to abuse at the Home as it was experienced by the former residents and by others involved. The uniform concern and regret for the human toll and failure of the response to meet the needs of those most involved was striking. This reflects what we have heard from former residents about the harms they suffered during their experiences with both the criminal and civil justice systems. Those who work within and alongside these systems also recognized the impact of adversarial processes on victims both as witnesses and complainants. Lawyers and police acknowledged how difficult it is to find ways within the roles they play in the adversarial process to attend to the needs of those who have experienced trauma and harm. There was also a shared sense, whatever part one played in the formal process, that individuals are caught up in a system with rules and expectations that make it difficult to act differently.

What emerged across the various processes, including those with former residents, police, lawyers, community stakeholders, and system stakeholders, was a remarkable recognition of the need for a shift and a genuine desire to contribute to such a shift. There was a significant appreciation of the fundamental and cultural nature of this shift that entails more than tweaks or small reforms to justice practice and process. It requires a different way of thinking about justice. Participants reflected on their experiences in the Inquiry process as a different response to abuse and a helpful basis from which to imagine what such a shift might entail.

The restorative approach that ultimately informed the settlement of the civil claims related to the Home and of this Inquiry was possible, in part, because of Nova Scotia's experience with restorative justice. In fact, Nova Scotia is a recognized leader, both nationally and internationally, in restorative justice. The development of restorative justice ran in parallel to the former residents' journey to light. Nova Scotia began development of a restorative justice program as part of the criminal justice system in 1997, the year before the first public abuse revelations from former residents.[37] Restorative justice was piloted and rolled out provincewide for young people in conflict with the law over the next four years. The Nova Scotia Restorative Justice program saw significant growth over the next decades, eventually resulting in the expansion of the program to include adults across the province in 2016. The experience also led to other developments in the province, including a restorative approach in schools[38] and at the Nova Scotia Human Rights Commission[39] (first applied to the case of the Halifax Black Firefighters Association case of systemic racism[40]), and within various organizations and institutions in the province seeking to address climate and culture.[41] The Nova Scotia Restorative Justice (NSRJ) Program involves collaboration between the Government and community and receives significant support from academic researchers and experts. The NSRJ Program is based on a set of restorative principles that supported a different understanding and approach to justice. These principles and the understanding of justice provided an important foundation for thinking about how to respond to the abuse at the Home differently. The experience of the Home has, in turn, impacted the development of a restorative approach in response to institutional abuse and failures of care with relevance to the future development of restorative justice in Nova Scotia. One of the real-time impacts of the Restorative Inquiry process, for example, was the application of a restorative approach to the resolution of a civil claim regarding a death in custody.[42]

NSRJ Program Principles

- **Relationally focused:** attention to interconnection, seeking to understand and promote just relations between individuals, groups, and communities
- **Comprehensive and holistic:** takes into account histories, contexts and causes of harm, and its impacts
- **Inclusive and participatory:** culturally grounded and trauma informed, attentive to the needs of parties and the safety and well-being of participants
- **Responsive:** contextual, flexible practice, accessible, efficient and effective processes, informed by data and knowledge
- **Focused on promoting individual and collective accountability and responsibility**
- **Collaborative and non-adversarial:** among parties to the process and system and community partners
- **Forward-focused:** educative (not punitive), problem-solving, preventive and proactive

This experience with a restorative approach to justice also helped frame an understanding of the shift to human-centred justice. A restorative approach to justice in Nova Scotia is based on relational principles that are central to being human-centred. The principles of a restorative approach that ground the NSRJ program[43] also shaped the approach of this Inquiry and inform the nature of the shift in the context of the responding to institutional failures of care.

The goals of the NSRJ program are significant in that they resonate with what we heard from participants within the Inquiry about what was important in terms of a shift in the response to institutional abuse and failures of care. The goals and objectives of the Nova Scotia Restorative Justice Program are:

- **Respond to needs of individuals and communities affected by crime:** with particular attention to the needs of victims and those harmed by crime (individuals and communities)
- **Harm reduction:** reduce cycle of harm and injustice, prevent further harms to vulnerable individuals and communities, and reduce over-representation of marginalized individuals in the justice system
- **Support individual and collective taking of responsibility for harm and public safety**
- **Increase access to justice:** more effective, timely, inclusive, equitable justice system
- **Provide responsive justice:** human-centred justice processes that consider root causes and seek meaningful outcomes and responses
- **Increase public confidence and accountability in the administration of justice**
- **Build and support healthy, safe, and strong communities**[44]

This experience with restorative justice, grounded in relational principles, helped frame the understanding of the shift to a human-centred approach and what it entails for responding to institutional abuses and failures of care. The shift can be understood — as it was for the former residents of the Home — as a shift to restorative responses to institutional abuse. We have identified this shift, as we have come to understand it through the Restorative Inquiry, as involving the following elements:

From	To
System centred/siloed/fractured/impartial	Human centred/integrated/holistic/caring
Focused on isolated individuals and system imperatives	Focus on relationships/connection/context
Adversarial	Collaborative
Individual accountability	Individual and collective responsibilities
Focus on compliance with fixed structures, regulations and rule	Responsive to needs/context and circumstances, problem-solving/flexible
Backward focused – establishing blame	Future focused – concerned with safety and addressing harm
Reactive	Proactive and preventative
Risk averse – framed by liability/ focused on minimizing all risk	Needs focused – support to balance risk with public safety

As discussed in Chapter 5, the current adversarial, individualistic, punitive character of the system-centred approach to justice has significantly influenced responses to institutional abuse and, more generally, failures of care within and beyond the formal justice system. The need for a shift is not limited to changing the approach within the justice system (criminal, civil, and public inquiries), but is also required with respect to the ways in which organizations, institutions, and systems (within government and community) respond to institutional abuse and other failures of care. This includes complaint, investigation, and review processes, as well as the mechanisms of accountability for systems and those that work within them. Burford, Braithwaite and Braithwaite point to the significance of restorative justice to supporting regulation that is responsive in place of the current reliance on regulatory systems backed by punitive reactions to institutional failures.

> Restorative justice and responsive regulation both seek to be forward-thinking, that is, moving to problem solving and to planning for the future. Both hold in common the view that punishment, when it is seen as excessive, unfairly administered, or is seen as a bluff, typically fails in its goals and often provokes defiance and a rippling loss of trust in the system of regulation. Quite often even backlash. They also hold in common that when people have access to

> safe, timely, fair and trustworthy means of having their grievances, including their experiences of persecution, or even questions about the way they are being treated, heard and understood, that the likelihood of conflict escalation and the associated costs are reduced. Then hopes of harmonious relations and reduced threat of continued strife are increased. We expect this to hold true in most areas of the human services including heath, education, social services and justice settings and encounters.[45]

The shift to human-centred justice is important not only to address the justice system's role in responding to institutional abuse and other failures of care, it is also important to inform the approach to responses within care systems. This is also important, as became clear through the Inquiry processes, because of the collateral effect that the response to abuse has on the system of care. Responses to abuse and failures focused on blame and punishment have significant impacts on those involved in these processes. The impact is most significant for those who have experienced harm, as we learned from the experience of former residents. But they also have an effect on those working within the system of care and on the system itself. Such responses create fear of failure — a fear of being blamed for failure and a resulting focus in protecting the system against risk, liability, and failure.

By some measures this is not a bad thing. It is important that systems learn from past mistakes and take seriously the need to avoid similar failures in future. However, as we heard through the Inquiry, fear of failure is particularly problematic in the context of care — an undertaking that is laden with inherent risks associated with the changing and unpredictable needs of human beings. Being human-centred then requires flexibility and responsivity rather than the certainty that is sought when the primary concern is exposure to risk and liability. The impact of this focus on risk and liability on care will be addressed further in the next section. For now, it is important to recognize that the shift needed to responses to institutional abuse and failures of care would also support a similar shift in the system of care. Indeed, participants in the Inquiry identified current responses to failures of care as one of the drivers of a system-centred, siloed approach within the system of care and a significant barrier to a human-centred integrated approach to care.

It is important to be clear that the suggestion that we shift from an approach that is backward-focused, oriented to blame and a punitive response does not mean simply looking forward and not attending to mistakes and failures of the past. The move from a focus on blame is not a move away from responsibility.

It is important to be clear that the suggestion that we shift from an approach that is backward-focused, oriented to blame, and a punitive response does not mean simply looking forward and not attending to mistakes and failures of the past. The move from a focus on blame is not a move away from responsibility. Quite the opposite, as the experience of this Inquiry process has demonstrated. Guided by the model of Sankofa,

it is essential to look back and deal with the past in order to move forward in knowledgeable and good ways. It is important to acknowledge that it can be difficult, and even painful, to look back and come to understand what happened in the past and one's role in it. That this can be difficult, however, should not be mistaken as a necessary part of the process. The difficult process of looking back can bring important insight, yet pain is not the source of the insight. John Braithwaite's work on reintegrative shaming is helpful on this point. He insists it is important to contend with the shame that often results from coming to understand responsibility (individually or collectively) for harms or failures, yet it is the way in which we manage and deal with shame that is key. We need processes that are able to support the difficult process of dealing with responsibility for harm if we are to build the relationships and understanding needed for a just outcome.[46]

It is also important to think about the significance of shame in the context of acknowledgement of harm and responsibilities — as part of what it means to "be sorry." The role of apology in the response to the abuse and harm related to the Home has been instructive. The Government apology acknowledged responsibility but also committed to a process in which the Government (and Nova Scotians) could come to understand their collective responsibilities and apply those lessons rather than be defensive. It was not an apology that expected forgiveness. Apologies for institutional failures serve the purpose of acknowledgement and acceptance of responsibilities. They are not aimed at reconciliation in the same way in which interpersonal apologies often are. Apologies for institutional failures are often resisted in the context of systems focused on blame and liability. They are also sometimes resisted by those within the systems because they feel they cannot apologize for something they did not do. This is expressed particularly with respect to historic harms or in cases where the individual(s) directly involved in inflicting the harm are not willing or able to offer an apology for their actions.

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However, in the context of a shift to a restorative human-centred approach, apologies from institutions and collectives are not focused on admitting "fault" or accept "blame" in the simplistic individualistic ways we apply those concepts in our current system. They are about acknowledgement and a willingness to learn and understand what it means to be sorry — to show we are sorry — for what has happened by what we do in the future.

II. Responding While Institutional Care is Failing

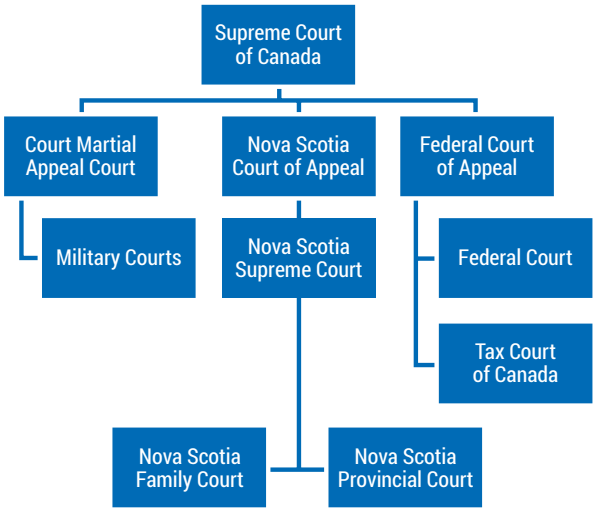
The other important aspect of responding to failures of care concerns how systems respond while care is ongoing. This was an important learning from the story of the Home as we considered the experience of former residents as young people living in the Home. As discussed in Chapters 3 and 5, part of the failure of care experienced by former residence was the lack of response to the neglect and abuse they were experiencing at the time. This was true in terms of the staff and leadership at the Home. There was also a significant failure of response by systems and system actors beyond the Home. Indeed, as noted in Chapter 5, the siloed and fragmented nature of the systems resulted in a failure to connect the dots and fully understand or respond to what was happening for residents at the Home. A recent report from the United Kingdom in institutional child sexual abuse concluded that:

> Within institutions, factors that may help keep children safe – or expose them to greater risk – include the quality of relationships with staff, staff ratios, the size of establishments, the physical environment, the population mix, staff training and the extent to which institutions are open to input from external agencies. Besides requiring rigorous recruitment and selection processes, organisations need to build an open culture where safeguarding is seen as everyone's business, children have safe spaces and positive relationships with several staff members, and opportunities for abuse to occur are minimised.[47]

As evident in the history of the Home (see Chapters 3 and 5) these factors were clearly absent or inadequate in the case of the Home. Various stakeholders connected to the system of care reflected within the Inquiry process that the siloed and fragmented culture remains and continues to make it difficult for the care and protection of children to be a shared responsibility. There remain significant barriers to sharing information or to stepping outside operational or jurisdictional boundaries to assess whether there is cause for concern and response. When there is collaboration, it is often born of necessity in the form of a clear crisis that requires collective action. Participants shared how difficult it is to work in integrated and collaborative ways absent an urgent or crisis situation. This remains true despite the successes realized by working in more integrated holistic ways. There was a clear consensus within the Inquiry process that there would be significant value in working in more integrated and collaborative ways proactively and preventively. Participants in the Inquiry acknowledged that the barriers to working this way are not all structural — there are cultural issues that get in the way, including trust between and among professionals working in these different systems. However, there are also real structural impediments to responding in more integrated ways, including the lack of mechanisms for integrative governance, practice, and service across mandates and operational responsibilities.

One such structural impediment in responding to institutional abuse and other failures of care is the siloed and fragmented nature of the justice system. Young people and families experiencing issues related to care and well-being can be (and often are) the subject of multiple judicial processes. In part, this is a function of the court system in Canada, which divides jurisdiction over criminal and family matters among different courts. Some matters are dealt with by provincial courts and others by superior courts.

Court Structure – Nova Scotia



A young person or family connected to the care system may end up involved in a number of different proceedings resulting from or related to the relational and care issues. These might include, for example, child protection proceedings in family court, other custody and access matters in family court, youth criminal matters dealt with in youth court, adult criminal court and/or the domestic violence court (where operative), and/or mental health or drug court. Each proceeding may deal with a particular aspect of the young person's and family's issues or experiences and may make decisions or issue orders that impact members of the family. Seldom do decisions and orders take account of other existing and potentially conflicting decisions, creating a patchwork and complex terrain for individuals and families to try to understand and navigate. In the process, the full measure of individual and family circumstances and needs is often obscured and left unaddressed by these various processes.

Even a single court process can be intimidating and confusing for young people and their families. We heard this clearly from the young people who participated in the Inquiry and from legal counsel working for Government and legal aid. They shared how confusing, frustrating, and sometimes frightening the process can be, especially if you do not have family support or legal counsel. The same concerns expressed by young people here in Nova Scotia are shared across other jurisdictions. For example, in the UK, "A common theme in the feedback from interviews with children who have experienced family proceedings is that they felt that the proceedings were 'happening' to them and that they felt excluded, powerless to influence, contribute to or even make their voice heard in the process."[48] The sense of disempowerment and confusion

multiplies with additional and overlapping court processes. During the Inquiry, we heard about the impact this has on young people and families. We also heard concerns from those within the justice system about the impact on ensuring access to justice and to securing effective justice solutions across multiple proceedings and courts for young people and their families.

Through the Restorative Inquiry, we came to understand from participants what is needed or gets in the way of shifting the way we respond to institutional abuse and failures of care. We also came to appreciate that there has been some change already that is keeping with and supportive of the shift we seek. While there are many insights from the Home that remain relevant for today, things have not remained the same. Participants in the Inquiry pointed to some helpful and hopeful signs of the potential for such a shift. One such example, discussed above, is the development of restorative justice in Nova Scotia and the impact that is having. Another example is police attention to the need to be trauma informed in their investigations and other work. Police participants acknowledged there is still much work to be done on this front, but there is a commitment to support learning and change. The RCMP also shared there have been significant changes to the ways that files are handled to ensure better tracking and accountability. They recognized more needs to be done to place human beings at the centre of their approach to handling files and information.

Changes are also underway in terms of the Government's response to institutional failures through the civil justice system. The Department of Justice shared that they have made some adjustments to their processes and are exploring a restorative approach. For example, they have started offering counselling support, where appropriate, to those who bring claims prior to any determination about settlement or litigation strategy.

There are also efforts underway to be more proactive in the context of institutional care than was the case when the Home was operating. The Nova Scotia Office of the Ombudsman, for example, has a mandate to oversee young people in residential care settings. While there are limits to the office's role and capacity, they shared with the Inquiry that they are trying to take a problem-solving approach when young people raise complaints. The office has been proactive about reaching out to young people to ensure they know there is an avenue to share their concerns. However, the individual, complaint-based nature of their response makes it challenging to address systemic issues or to work in non-adversarial ways to address the issues with institutions and systems.

In our consideration of responses to institutional abuse and other failures of care, we came to appreciate the impact the nature of the responses has within the system of care. There is a clear link between the system-centred responses to abuse and failures of care and the experiences with the system of care.

B. Shifting Experiences of Care and the System of Care

I. Overarching Shift – Human-Centred Care

The need to be more human-centred in the system of care was a clear and constant theme throughout the learning and understanding phase of the Restorative Inquiry. Participants clearly identified the current approach of the system as a barrier to working differently — to putting human beings and their needs at the centre of the work. The following sections reflect these insights about the nature and implications of a shift to a human-centred approach to care.

One of the most profound lessons taken from the history and experience of the Home was that caring for children and young people requires placing them and their needs at the centre of the systems, institutions, organizations, and services intended to care for them. As discussed in Part 1 of this Chapter, to do this we must recognize the relational nature of children and young people — that caring for them means caring about the importance of their relationships/connection to family, friends, and community. In other words, a human-centred approach must reflect the fact that human beings are relational and cannot abstract individuals from their relationships. The truth of the importance of connections to family and to community rests at the core of the story of the Home and the harms experienced by its former residents. The importance of relationship to the well-being of children and young people was a central message from the young people with recent experience in care who participated in the Inquiry and was echoed across those connected to the care system in Government and community. Indeed, this significance of relationships is at the root of the need for a shift to a human-centred system of care capable supporting and sustaining the well-being of children and young people.

The learning and understanding phase of the Inquiry reflected on the need, nature, and implications of such a shift for the system of care, particularly for young people. Knowledge from research and provided by local and international experts supported participants from Government and community in this learning and understanding work of the Inquiry, and is reflected in this Chapter. As indicated at the beginning of this Chapter, the Inquiry supported parties' learning and understanding by engaging with national and international expert researchers and practitioners. The Inquiry received support with respect to considering the implications of a shift to a human-centred system of care from researchers and jurisdictions that have engaged or are engaged in such a shift. Of particular significance to our understanding was the knowledge from research and experience from jurisdictions taking a restorative approach within their system of care, including those in the United Kingdom, United States, New Zealand, and Australia. The Inquiry accessed expertise and research from across such jurisdictions with support from the Restorative Approach International Learning Community (ILC). Individuals associated with the ILC offered support to the Inquiry by suggesting and providing relevant international research and information, advice, and direct support to Inquiry participants through workshops and participation in learning and understanding, and planning and action

processes. Members of the Council of Parties and partners in the Inquiry also participated in several conferences and workshops through the ILC during the mandate of the Inquiry.

The following sections draw upon this international research and experience and, most significantly, on the work of the Inquiry during the learning and understanding phase to identify and consider the essential elements and implications of this shift for the experience of care and the system of care for young people and their families.

From	To
System centred/siloed/fractured	Human centred/integrated/holistic/caring
Focused on isolated individuals and system imperatives	Focus on relationships/connection/identify
Institutions and stranger care (care by strangers)	Care by family/friends/community
Professional controlled	Child/family/community lead
Focus on compliance with fixed structures, regulations and rule, values certainty – permanence	Responsive to needs/context and circumstances, values flexibility in seeking stability in changing and dynamic relationships
Driven by system's culture	Driven by family/community culture
Hierachical/top down/imposed	Negotiated/collaborative/collective effort
Risk averse – framed by liability/ focused on minimizing all risk	Needs focused – support to balance risk with wellbeing (and understands inherent risks involved in children/families)

II. From Silos and Fragmentation to Integrated and Holistic

FROM System centred/ siloed/fractured → **TO** Human centred//integrated/holistic

As described in Part 1 of this Chapter, a system-centred approach is characterized by silos and fragmentation. This was identified through the Inquiry as an issue with the system of care in Nova Scotia. Silos and fragmentation are evident in how the system is organized across the Government and in community. It has significant impacts to the way in which care is understood and, consequently, how it operates, functions, and is experienced.

i. Within Government

One of the impacts of silos and fragmentation is the view of care as if it is the jurisdiction or preserve of the one system: child protection. Care is often associated with taking children and young people into the care of the State. This focus narrows the view of the nature and range of care needed and actually provided to young people, families, and communities. As we heard during the Inquiry, this has significant effects in terms of undermining the collaboration and integration of areas and services required to provide good care. At a system level, it often leaves child protection independently responsible for care and care outcomes, while isolating the resources and capacity needed for this work. From the perspective of young people and families, it can create misleading impressions or expectations that the care system is able or designed to meet their comprehensive care needs.

The Restorative Inquiry has used the term *"system of care"* in reference to Government to broaden the view of its care work to encompass all the relevant systems, services, and supports, including (but not limited to) education, justice, health, labour and advanced education, and community services (children protection, housing, income support, disability services etc.). It is also important to recognize that Government departments alone do not provide care support and services, there are many Governmental and non-governmental agencies engaged in this work. Also, as discussed below, communities play a significant role in the system of care.

The Restorative Inquiry has used the term "system of care" in reference to government to broaden the view of its care work to encompass all the relevant systems, services and supports.

The siloed and fragmented approach to care has not only limited our view of care to child protection, but even within that realm, the system is divided according to how the system provides this service. Care is generally thought about in stages oriented around the role and engagement of the system: before or coming into care, during care, and leaving care. Indeed, these distinct stages structure players, programs, and policy areas in ways that initially led

Care is generally thought about in stages oriented around the role and engagement of the system – before or coming into care, during care and leaving care.

…it became clear that these divisions made sense from the perspective of the system but not when we turned attention to addressing the experiences and needs of young people and families.

the Inquiry to approach our work along these lines. As the process developed, however, it became clear that these divisions made sense from the perspective of the system but not when we turned attention to addressing the experiences and needs of young people and families.

Examined from the perspective of young people and families, care is much more complex and multifaceted. It does not orbit around the child protection system with need measured by the proximity to that system. Certainly, proximity to the child protection entry point is significant and should trigger attention to the care needs of a young person. However, this is not the only way the need for care presents, and attention is needed to other entry points — other places, spaces, and ways that signal the need for support to ensure relations of care are adequate. This recognition significantly blurred the stages and categories of care for the Inquiry and revealed the ways in which such an approach fails to recognize the important connections across the stages of care.

The issue with dividing up the stages of care in this way was particularly clear as we considered the experience of "leaving care" — when young people age out of care and the system no longer provides a service. There was a remarkable gap in the attention, services, and supports at this stage of care. In part, this reflected that the care system was no longer engaged in care at this stage. Those within the child protection system are aware of this issue. Indeed, they raised it often within the Inquiry processes. They have made some efforts to respond by extending some services and supports for longer (for example, supporting young people who are going to university or college, or by extending placement in care by consent/agreement of the young person). What this does not address, though, is the failure to build lasting networks of caring relationships during time in care so that leaving the child protection system would not mean being left with no one who cares. This was the experience of many of the former residents we heard from, and was also true for those young people we heard from with recent care experience. The very notion of being "out of care" is not reflective of the relationships key to well-being for young adults or adults. A relational view of people challenges the idea that healthy and successful adults are independent or self-sufficient. Well-being requires networks of healthy, caring relationships. It is marked by interdependence, not independence. The information regarding over-representation of former children in care within the homelessness and prison[49] populations, and the under-representation in higher education, is telling in this regard.

Wellbeing requires networks of healthy, caring relationships – it is marked by interdependence not independence.

A 2016 study on the connection between child welfare and homelessness in Canada found:[50]

- 57.8% of youth experiencing homelessness reported some type of involvement with child protection services over their lifetime.
- 63.1% of youth who are homeless report experiencing childhood trauma, abuse, and/or neglect - a key cause of involvement with child welfare.
- 73.3% of youth who became homeless before the age of 16 reported involvement with child protection services.
- Compared to the general public (Statistics Canada, 2011), **youth experiencing homelessness are 193 times more likely to have been involved with the child welfare system than the general public**.
- 31.5% of youth who are homeless report their first contact with the welfare system at the age of 6, with 53% reporting continued involvement beyond the age of 16.

A system of care needs to be oriented to building the relationships needed for well-being. This means orienting resources and supports to ensure relationships of care and support, including, for example, places to go back to once a young person is not formally within the ambit of the child protection system. There should be enduring connections and relationships of care built that will be there when things get rough, or to celebrate when things go well, or to return to for holidays, etc. It was helpful within the Inquiry to consider the significant attention the issue of "care leavers" has drawn in the United Kingdom.[51]

A system of care needs to be oriented to building the relationships needed for wellbeing.

Care is a shared responsibility with multiple entry points that need to be connected and integrated.

This understanding influenced the work of the Inquiry and the effort to engage all those across systems and in the community who are concerned with children and youth in need of care in a range of ways. This focus was much broader than the current child protection system and the parameters of its care. Care is a shared responsibility with multiple entry points that need to be connected and integrated.

Through the Inquiry, we came to understand how the view of care shapes the idea that young people are either in or out of care. This is also evident in the extent to which the system's focus is on the

entry point to care — on "taking kids into care" or the prospects of doing so. This characterizes the State's role in care rather than considering its part in the care network alongside others who are connected to care. On the systems' terms, care becomes either/or: you're in or out, and this shapes responsibilities and resources for care. During the Inquiry, we learned of the efforts underway within the system to intervene earlier and in more supportive ways with families. However, such efforts generally remain within the frame of the care system and have been led or controlled within the ambit of child protection. This has made it difficult to navigate the jurisdictional relationship with other departments, agencies, and, importantly, with families and communities.

The siloed and fragmented view of care and its significance was evident in the Inquiry's efforts to engage partners/parties. One of the challenges in the initial work of the Inquiry was to build an understanding of the role and responsibilities of various systems and stakeholders for the issues and work of the Restorative Inquiry. As explained in Chapter 2, the initial stage of the Inquiry focused on relationship-building. This included building awareness and understanding of parties' relationships/connections to the central issues and among one another in relation to these issues. This required overcoming siloed and fragmented ways of thinking about care, responses to failures of care, and racism.

Placing young people at the centre revealed how silos carve up the experiences and needs of young people in ways that are not reflective of their lives.

To reveal and build these connections, the Inquiry did not approach the issues in terms of the jurisdiction of departments or the way systems interact or serve young people. Rather, we started from the story of the Home through the perspective of those most affected and continued to place young people and families at the centre when considering the current situation. Starting with children, young people, and their families cut across the various silos because their experiences and needs are not fragmented. For example, it is not possible to assign the task of ensuring young people are loved and feeling valued to one system, department, or program. Similarly, the need for young people to have a consistent, caring adult in their life cannot be the concern just of the Department of Community Services and social workers; young people look to education, health, and the community to meet this need. Placing young people at the centre revealed how silos carve up the experiences and needs of young people in ways that are not reflective of their lives. The Inquiry processes also revealed the importance of connections — of relationships — to young people. Silos and fragmentation not only divide up issues and needs according to system mandates, but, in the process, often separate individuals from their contexts — from their identity as part of families and communities — and deal with them as clients or subject matters of a system. Given the significance of relationships to young people's well-being and, indeed, to their identity, the impact of silos can result in harmful fragmentation in young people's sense of themselves and their sense of belonging. Coming to understand these impacts of silos and fragmentation brought clarity and urgency to the need for a shift to a system of care that is holistic and integrated.

...better outcomes for children and young people requires more than making it easier to deal with multiple systems by coordinating how issues and children will be passed from system to system...

It also became clear through the Inquiry that such integration requires more than support to navigate the existing siloed systems, and more than efforts to coordinate the silos. Such efforts may mitigate some of the inefficiency or frustrations at an operational level; however, in as much as such solutions leave the structural silos and fragmentation in place, they do not achieve the shift in care needed. This key learning was also identified by the United Kingdom's Department for Education, Children's Social Care Innovation Programme. Following the first wave of the Programme, based on the evaluation of 17 projects, they determined that better outcomes for children and young people required more than making it easier to deal with multiple systems by coordinating how issues and children will be passed from system to system according to their issues. It requires a substantial change in how the system works.[52]

ii. Between Government and Community and within Community

As explained in Chapter 3, the historical divisions between private/public and Government and community institutions and agencies in child welfare had a significant impact on the story and experience of the Home. The Inquiry found that this is not a thing of the past. The divisions between system and community care efforts, and between both and the young people and families they seek to support, is another example of the siloed and fragmented nature of care.

We also came to understand through the Inquiry that silos and fragmentation exist at the community level as well.

The reference to "system" in the system of care the Inquiry is concerned with is not limited to the formal Government systems, but refers to the broader system of care, including community-level systems and networks of care. There continues to be clear and significant silos between community-based care organizations and efforts and Government care systems. Through the Inquiry, we also came to understand that silos and fragmentation exist at the community level as well. In no small part, this is a result of the influence of Government structures, systems, and funding models at the community level with respect to community-based programs and services.

As we saw in the origins and history of the Home in Chapter 3, silos and fragmentation exist across communities and within communities between the leaders and grassroots. In the case of the African Nova Scotian Community, these silos and fragmentation are, in part, a structural impact of racism and the way the white establishment and Government engages with the Black community.

Community-based care organizations are often more aware of the interconnected and integrated needs of young people, families and community and, therefore, often see the need for more holistic integrated care.

Community-based care organizations are often more aware of the interconnected and integrated needs of young people, families, and community and, therefore, often see the

need for more holistic, integrated care. However, the ability to appreciate the need does not translate into the willingness or ability to work in collaborative and integrated ways. This is especially true if it requires sharing of scarce resources, or sharing or ceding specialization over an issue or service area within the community.

This then distracts attention from the fact that, at its core, care is about relationship. This view of care as a system or service reinforces the subsidiary role of community in care. As a result, community engagement in care is generally the purview of organizations and often through programs and services funded by Government.

Shifting the view of care as a matter of relationship would draw attention to the nature of relationships and connections required for care. This would bring to the foreground the significance of family and community relations. The role of parents, family (related or chosen), and community become more central to the idea of care than systems and services. The UK Department of Education's Children's Social Care Innovation Programme's learning summary from their work to bring positive outcomes for children and families similarly found that "what makes the difference to young people's lives is the quality of the relationships they have with the carers and practitioners around them."[53] Recognizing care is relational – it requires relationship – also shifts the idea of protection. No longer is it sufficient to focus on protection from others or circumstances. Connection and relationships with others becomes core to protection. The work of child protection must be concerned with establishing protective relationships. This is not work that Government systems and agencies are well placed to do, at least not alone. This is work for community with their access, knowledge, and capacity to identify, build, and nurture these caring relationships. Of course, not all relationships are caring or support the care needs of young people. The work of child protection needs to be concerned with finding, supporting, and sustaining the sort of relationships young people require to be well and flourish. This is work that requires support, effort, and resources from both the Government and community. Systems of care then must be reoriented (shifted) to ensure the sort of connections needed, rather than simply serve as a mechanism to deliver a set of care services.

It is important to understand that the inability to meet needs or keep a child safe is not always indicative of a lack of care nor that the young person or parent does not care about that connection.

The relational nature of care then reflects a different understanding of young people's safety and well-being than is often articulated by care systems. Safety and well-being are often determined by a lack of risk or harm, rather than in relational terms. Of course, physical safety matters to well-being and there are circumstances where that cannot be provided or where the basic physical and emotional needs cannot be met. In such cases, intervention is needed to secure a different plan for a living arrangement. Ending a living arrangement is often approached as if it is ending care (perhaps as signified by the term being "taken into care" of the State). It is important to understand that the inability to meet needs or keep

a child safe is not always indicative of a lack of care, nor that the young person or parent does not care about that connection. Indeed, we have come to understand the significance young people place on being connected to family and community. We heard that those connections are often lost or significantly diminished when the State becomes involved in care. The loss of or damage to these relationships often undermines a young person's sense of identity and belonging, which has a significant impact on well-being and safety.[54] The need for connection and relationship was described by those who have been in care as the factor that drives them to seek out relationships with parents or family after care.

The Inquiry also came to appreciate how important it is to understand families relationally. This sounds obvious since, of course, families are constituted by relationships. What we mean by this is to understand families as complex ecosystems that do not operate well in isolation.[55] They are impacted and influenced by other systems in both positive and negative ways. We cannot assess or measure families with respect to their ability to provide care without considering the systems surrounding them that impact their capacity, including social and economic structures (for example, racism and socio-economic inequality). We need to attend to the relational needs of families in terms of the systems and supports they need to be well and able to support well-being of family members. Silos and fragmentation impact families, often resulting in isolation from other systems and supports.

Viewing care relationally, through the Inquiry, revealed the value and significance of connection with family and its role in well-being. It made clear the importance of maintaining young people's connection with family. This is best achieved by supporting them to remain living with, or in close connection to, their family. The primary concern for child protection, then, should not be whether the child can remain in their home or not, but what is needed to support healthy connection with their family. Sometimes that will be possible within the existing living relationships, and sometimes it will require a change in those arrangements on a temporary or permanent basis. Figuring this out requires those who are most knowledgeable and can be helpful with respect to assessing and supporting these relationships. There is clearly a supporting role for professionals and others within formal systems in this work, but family and friends close to these relationships are key to this work as well. This makes clear how important the relationships are among caregivers (family, community, and systems) in order to ensure integrated support for care.

The primary concern for child protection, then, should not be whether the child can remain in their home or not but what is needed to support healthy connection with their family.

Attention to the siloed and fragmented nature of the current system of care and its impacts resulted in participants in the process clearly seeing the need for a shift. Through the process, participants delved deeper to identify and explore the elements involved in such a shift.

III. From Risk Adverse To Needs Focused

FROM Risk adverse (framed by liability/focused on minimizing all risk	**TO** Needs focused (support to balance risk with wellbeing understanding inherent risks involved in children/familes

As we discussed earlier in this chapter, the blame-based, punitive, and adversarial response to failures of care has contributed to risk aversion as a driving force in the system of care. Paul Nixon, former Chief Social Worker for New Zealand, offered his expert knowledge and support to the Inquiry. In describing the state of child welfare systems generally, he shared his view which accords with what we have come to understand about the system of care in Nova Scotia. He said:

> Systems are out of date and *driven by fear* of making a mistake. This creates risk averse practice conditions in which agencies focus on making a *defensible* decision rather than making the *right* decision.
>
> Enduring obsessions with 'risk' and 'risk assessment' in statutory child protection systems seem not entirely motivated by concerns about the safety of children; they are just as likely to be driven by the need to provide mechanisms to ration resources and allocate accountability and subsequently blame (usually to social workers) when things go wrong.

This risk focus is clearly concerned with risks *to* the system, but it has also shaped the view of what children and young people need. Their needs are now often characterized through the lens of risk factors.

The focus on risk seems so pervasive and consuming, in part, because of the nature of child protection. Risk is often perceived when things are unpredictable or uncontrollable. Child protection is an inherently uncertain enterprise — there are so many variable factors, including the changing nature and needs of young people, the dynamic and fluid nature of relationships, and the interconnected ecosystem of families. Child protection is, therefore, by its very nature, laden with risk. The Munro Review of Child Protection in the UK also identified that the uncertain nature of child protection is related to the fact that abuse and neglect often happen within the privacy of the family home and can be concealed. Uncertainty also results from having to make predictions about the future safety of young people with limited and imperfect information.[56] This nature of child protection led Munro to call for a recognition that risk cannot be eliminated because:

> Uncertainty pervades the work of child protection. Many of the imbalances in the current system arise from efforts to deal with that uncertainty by assessing and managing risk. Risk management cannot eradicate risk; it can only try to

> reduce the probability of harm. The big problem for society (and consequently for professionals) is working out a realistic expectation of professionals' ability to predict the future and manage risk of harm to children and young people.[57]

The predictive nature of care is related to what the Munro Review identified as the significant problem with hindsight bias in assessing risk. Munro explained:

> Mistakes in assessing risk can be either of under-estimating (false negative) or over-estimating (false positive) the danger to the child. With hindsight, it can be deemed that the child was left in an unsafe home or was removed without sufficient cause. The former kind of mistake is more easily seen so there is more pressure in general to avoid false negatives than false positives. However, there seems a predictable rhythm to society's pressure. Fluctuations in public attitudes to removing children from their birth families are linked to major media coverage of mistakes.
>
> …
>
> It is important to be aware how much hindsight distorts our judgment about the predictability of an adverse outcome. Once we know that the outcome was tragic, we look backwards from it and it seems clear which assessments or actions were critical in leading to that outcome. … The hindsight bias:
>
> 'oversimplifies or trivialises the situation confronting the practitioners and masks the processes affecting practitioner behaviour before-the-fact. Hindsight bias blocks our ability to see the deeper story of systematic factors that predictably shape human performance.'[58]

The focus on risk and risk factors has another disadvantage, it overshadows or obscures attention within the child protection system to protective factors for children and youth. Protective factors are often the flip side of risk factors. They are what supports a young person's well-being. The New Zealand White Paper for Vulnerable Children described protective factors this way:

> While addressing risk factors is often the focus of prevention activities, building protective factors is also important. To some extent, protective factors are the inverse of risk factors: in the absence of risks such as those set out above, children are much more likely to thrive. For example, economic resources provide a buffer against poor outcomes, as do good-quality housing and parents who avoid behaviours that can jeopardise the wellbeing of children.[59]

According to the New Zealand White Paper for Vulnerable Children (2012), research has identified a range of other factors that help to protect children against poor outcomes, even in the presence of other risks. These factors include:

- Parental-child attachment
- Positive parenting
- Family stability
- Social support
- Social capital
- Parents' knowledge about child development
- Family traits and practices, including cohesion, belief systems, coping strategies and communication patterns
- Cultural identity
- Community cohesion
- High-quality ECE centres and schools

This shift to a focus on protective factors also reveals the need for a relational analysis of risk as it draws attention to the context, causes, and circumstances needed for well-being. The absence of these factors generates risk for harm. One of the issues with the current system-centred approach is that it focuses on individual clients (young people) and generally on a narrow range of their life circumstances to determine risk. This focus typically finds risk emanating from those responsible for care (caregivers – often parents) either by their actions or lack of action to mitigate or address other external risk factors. As Featherstone et al. argue:

> …it is time to question a child protection project that colludes with a view that the greatest threats to children's safety and well-being are posed by their parents' or carers' intentional negligence or abuse. This project has created systems that convert the need for help into evidence of risk, and operate with a crudely reductive and punitive understanding.[60]

Viewing risk then, in this individualized way (as discussed in Chapter 5 Part 3 and in this chapter regarding the responses to failure and accountability frameworks) obscures systemic factors. The preoccupation with risk at an individualized level in child welfare systems results in a search for harmful actors — for those who are to blame. Solutions are aimed at controlling or managing those harmful actors and actions. Munro see this as related to the problem of hindsight bias:

> Hindsight bias has influenced the authors of many of the SCRs [serious case reviews] conducted when children, known to services, die or are seriously injured. The most frequent conclusions are that the faulty practice is due to human error: with hindsight it looks as if, for example, the teacher or social worker 'should have' been able to see the danger to the child and ought to have acted differently. In this respect, child protection has followed the pattern of other inquiries in high risk areas of work in concluding that human error was the problem. There is, indeed, a common pattern across different areas of work of about 70–80 per cent of inquiries concluding that human error was a significant cause.[61]

The focus is on addressing individual behaviour and not system and societal change. Avoiding this mistake has been one of the driving factors in the choice and design of this Restorative Inquiry. Through our broader examination of what happened in the Home, we have come to understand the significant structural and contextual issues that shaped individual actions and reactions. Without this understanding, we would have missed what matters most about the history and experience of the Home for making a difference in the future. We would have been left to apportion blame among individuals and institutions without the information needed to understand why and how the harm and abuse happened. Featherstone et al., raise questions that are seldom attended to in the context of assessing child welfare and call for a shift in keeping with the one advocated for through the Restorative Inquiry.

> Child protection has become inextricably linked with the failure of professionals to prevent children dying at the hands of parents of carers. However, the numbers of such deaths are very low and appear to be in long -term decline. Comparatively speaking many more children and young people are dying from what would appear to be avoidable reasons such as poverty and associated issues. Why the lack of attention to this from across society, including those constituencies concerned with child protection? Why are its social determinants obscured in the emphasis on parental intentionality and culpability?[62]

Such a change should, they suggest, employ a social model that reflects the shift in approach we have come to see as necessary through the Restorative Inquiry.

> The social model has challenged thinking across a range of fields, including disability and mental health, leading to change in policy and practice. It has proved particularly compatible with the 'social' in social work and provided a philosophy and framework for articulating practices that challenge dominant biomedical models and their narrow focus on individual impairments, disease and risk. The social model specifically draws attention to the economic, environmental and cultural barriers faced by people with differing levels of (dis) ability. We explore its utility for 'child protection'; an area of work in England that is dominated by a focus on risk and risk aversion. This area has paid limited attention to the economic, environmental and cultural barriers to ensuring children and young people are cared for safely within families and communities and obscures the social determinants of much of the harms they experience.[63]

There need to shift attention in this way is particularly urgent where there are significant structural and systemic inequalities and factors like systemic racism (as exemplified in the case of the Home) that are foundational to the risks and harms young people experience and key to

A broader understanding of the nature of risk and protective factors does not mean that we should not attend to risks young people face. On the contrary, it calls for a more significant commitment to attend to risks at both at the individual and systemic/structural levels but not in isolation from one another.

their protection. As we discussed in Part 1 of Chapter 5, one cannot attend to racism only by looking for racists or individual racist acts because this will miss the systemic and structural nature of racism.

A broader understanding of the nature of risk and protective factors does not mean that we should not attend to risks young people face. On the contrary, it calls for a more significant commitment to attend to risks at both at the individual and systemic/structural levels but not in isolation from one another.

Munro recommends a shift from a "risk management" approach which trades on the idea that risk can be avoided or eliminated to an approach she calls "risk sensible."[64] Being risk sensible, accepts the inherent riskiness of care and of the lives of young people and aims to minimize the probability of harm.[65] This accords with the fundamental commitment and approach underlying the Restorative Inquiry to "do no further harm." In this respect we came to see potential for a harm reduction approach within the system of care.[66] An approach developed within the field of drug treatment as a pragmatic response that focuses on keeping people safe and minimizing harm associated with risky circumstances and behaviours, while recognizing that the circumstances and behaviour may continue despite the risks. The idea of harm reduction as focused on the conditions, circumstances and needs of those affected to minimize harm offers a helpful shift from the perspective of risk aversion.[67]

The focus on risk in the context of care contributes to the propensity toward ascribing blame.

Shifting away from a central focus on risk avoidance would also support a move away from individualized blame. As discussed earlier in this chapter the current approach to accountability is generally focused on allocating blame. This often results in blaming individuals when things go wrong. The focus on risk in the context of care contributes to the propensity toward ascribing blame. As discussed in Part 1 of this Chapter this blaming approach results in defensiveness or what Munro refers to as a defensive system. Munro explains that "[c]oncern with managing uncertainty has been affected by the level of public outcry when mistakes are made, so there has been a shift towards defensive practice where a concern with protecting oneself or one's agency has completed, and sometimes overridden, a concern with protecting children."[68] This defensive character of the system has led to increased formal regulation through rules and procedures dependent on blame-based accountability and punitive enforcement measures.

IV. From Formal Regulation to Responsive Regulation

FROM formal regulation focused on compliance with fixed structures, regulations and rule, values certainty – permanence.

TO formal regulation focused on compliance with fixed structures, regulations and rule, values certainty – permanence.

The nature of care, as discussed above, is inherently relational and laden with uncertainty. It is not only uncertain, as discussed above, because of the subjects of care work are human beings; it is also human beings within systems and communities that do the work of care. Human beings make mistakes and generate risk in the course of doing this very difficult work. Systems, in turn, try to control these human beings to ensure the needs and interests of the system are met and to protect the system from blame for mistakes or harms. Munro's review of child protection offers a helpful analysis of how the system seeks to control for this human risk factor.

Human beings make mistakes and generate risk in the course of doing this very difficult work. Systems, in turn, try to control these human beings to ensure the needs and interests of the system are met and to protect the system from blame for mistakes or harms.

> When it is concluded that human error is a significant causal factor, the customary, and understandable, solution has been to find ways of controlling people so that they do not make these mistakes. The three main mechanisms are: psychological pressure on professionals to try harder; reducing the scope for individual judgment by adding procedures and rules; and increasing the level of monitorings to ensure compliance with them. This has been the repeated response in child protection. Each inquiry adds a few more rules to the book, increases the pressure on staff to comply with procedures, and strengthens the mechanisms for monitoring and inspecting practice so that non-compliance can be detected. … Each addition in isolation makes sense but the cumulative effect is to create a work environment full of obstacles to keeping a clear focus on meeting the needs of children.[69]

As a result of this focus on regulating those providing care, rules and procedures are central to the work of child protection. As Nixon identifies:

> [a] key challenge facing social work is that it is now delivered through complex bureaucratic structures with increasing attention paid to managerial and procedural mechanisms to deal with children's placement needs. Set within strict agency standards, procedures and courts can lead decision making –

with little time or space for social workers to develop partnerships with families (Freeman and Hunt 1999, Smale et al 2000, Adams 2003). Child protection and risk management have dominated contemporary social work thinking and practice (Parton 2001).[70]

The formal regulation of child welfare is evident in the approach to cases through case management rules and procedures. This shapes the view and approach of systems to care. Cases are viewed through the lens of procedures rather than starting from the experience and needs of the parties involved to determine how best to respond. Throughout the Inquiry, we heard the frustration that results for those who work within the system of care. They echo the very same concerns reflected in Munro's finding that:

Cases are viewed through the lens of procedures rather than starting from the experience and needs of the parties involved to determine how best to respond.

> …such an approach provides an incomplete account of the intricacies of working with children and families for many of the professionals involved in child protection. It undervalues the fact that the work is done *in relationship* with children and family members so that the importance of continuity in human relationships is overlooked, causing considerable distress to children and parents.[71]

Inquiry participants from across sectors and systems of care expressed that the focus is too often on doing things right (according to rules and procedures) rather than doing the right thing (doing right by children and families).

Through the Inquiry, we have come to understand that this approach causes significant distress for many working within the system of care (both in Government and in community). Those working within or alongside care systems shared how difficult it is to work in ways that do not prioritize or sufficiently support relationship building as core to the work of care. In this respect, the rhetoric of the system — as valuing children and families — does not always, or even often, feel like it is reflected in the structure, approach, and operations of the system. We learned the toll this takes on those working within the system. It has contributed to high staff turnover and burnout, which, in turn, undermines relational consistency for children, young people, and families. Inquiry participants from across sectors and systems of care expressed that the focus is too often on doing things right (according to rules and procedures) rather than doing the right thing (doing right by children and families).

Doing right by young people and families requires more than rules and procedures. We have come to understand that a shift is needed to a principled approach. Care requires the ability to be flexible and responsive. This requires a move away from fixed compliance and rule-based models of practice to principle-based models. We have come to understand then that a significant element in the shift to a human-centred approach is to guide practice by adherence to relational principles. This is not to suggest that individuals working in the system of care are somehow unprincipled. The call for a principle-based approach seeks to guide how things are done at the levels of systems, policies, procedures, and practice. This Restorative Inquiry offers an example of how relational principles can support responsive regulation in practice. Another significant example can be found in the Nova Scotia Restorative Justice Program that is guided by similar relational principles (as listed earlier in this Chapter). Parties in the Inquiry saw the importance of a principle-based model of practice to ensure that *why* (the purpose) of supporting and sustaining relationships of care informs *how* things are done within the system of care and to assess whether we are doing the right things in *what* we do.

Doing right by young people and families requires more than rules and procedures. We have come to understand that a shift is needed to a principled approach. Care requires the ability to be flexible and responsive.

This shift will require stepping back from the formal regulatory model currently in place and its reliance on strict rules and procedures. This recognition led the Munro Review to recommend, for example, that:

> Government revise statutory, multi-agency guidance to remove unnecessary or unhelpful prescription and focus only on essential rules for effective multi-agency working and on the principles that underpin good practice. For example, the prescribed timescales for social work assessments should be removed, since they distort practice. The underlying principle of timeliness is important and should be applied to the whole process of helping a child or young person, not just the early stage of assessment.[72]

Such principles would then inform an overall care strategy and the approach to services and supports. Paul Nixon shared a New Zealand–based example of principle-based guidance for the provision of services in the care system.

Services for Children and Young People in Care are to be planned, developed and delivered according to the following key principles:

- Children's and Young people's Best Interests are the paramount consideration in all matters relating to the Child or Young Person.
- Cultural Responsiveness and Respect for diversity and different cultures, values and ways of raising children that reinforce children's sense of belonging, positive self-identity and culture.
- Participation of children, young people and family is to be meaningful in all stages of assessment, decision-making and review. This will also apply to service development and evaluation.
- Outcome focussed approaches will guide planning. Progress will be monitored and reviewed against the five key outcomes for children.
- Care Planning that is child centred ensuring children have high quality assessments of their needs and excellent care planning and matching of their needs to placements and services. This also require through monitoring of plans with timescales and specified outcomes.
- Evidence informed practice will help shape assessment, decision making and services. Research evidence and local evaluation of outcomes for children, will determine our interventions and services.
- Children will be supported to grow up in their own family wherever possible. Children should be prevented from entering the Care system when alternatives in their family or community can be found. Family support services will be solution focussed and strengths based.
- Placement with wider family or friends will be the first choice for those children unable to be cared for by their parents. Services will actively seek to identify and engage wider family through FGCs and through family networks to find appropriate care solutions for vulnerable children.
- Multi agency partnerships will be used to deliver a range of services for individual children who are vulnerable. Strategic planning will be conducted on an inclusive interagency basis.
- Permanent care and Home for Life arrangements providing lasting family relationships will be sought for children who are in care. Excellent planning is vital. This means ensuring that most children move swiftly out of the care system to permanent care arrangements through; reunification to parents, family, Home for Life, Adoption or moving to independence. The use of legal orders to support these placements is encouraged. In all cases drift in care planning must be avoided.
- Sustaining relationships for children and being close to their community is a key factor in making plans about where children should live. Placements should be sought that provide continuity and sustain links for children promoting contact with family, friends and where possible school.
- Longer-term Care placements must be rare and especially justified. These placements must have distinct therapeutic goals, with clear plans and timescales for the child's exit from care. The placement type must have clearly agreed therapeutic goals are closely monitored and frequently reviewed.
- Practice standards will help drive professional practice and will be developed with practitioners and service users. Practice, performance and quality are measured against standards and good quality supervision and training will be provided to equip staff to meet these goals.

This example is a helpful illustration of implementing the shift sought through the Inquiry. Rules and procedures that are developed to support case management and practice would have to reflect these principles. Importantly, this enables flexibility in the application of such rules and procedures as required to fulfil these principled commitments.

As discussed in Part 1 of this Chapter, a principle-based approach should support a shift from a focus on compliance with rules and procedures as a means of regulating the system of care. Instead, what is needed to ensure good practice is support for reflection and learning about what these principles require within the system of care. This will enable regulation that is responsive to the uncertain and complex nature of care. This approach also, as noted earlier in this Chapter, needs to shape the response when things go wrong in the system. Failures are often blamed on inadequate compliance with regulations or inadequate rules and procedures. In response, enforcement is often increased to ensure better compliance in future or to adjust or add rules and procedures. The response seldom considers whether the compliance culture itself was part of the problem.

Instead of backward-focused blaming, what is needed is a broader consideration of why a failure occurred. This requires a process oriented to learning and understanding the contexts, causes, and circumstances that contributed to the situation. The Restorative Inquiry has modelled this learning approach.

As discussed in the previous section regarding responses to abuse, it is difficult to support such a learning approach in a defensive system. Since the blame-oriented response to failures contributes significantly to this defensive posture of the system, careful attention will need to be paid to the nature of investigations and reviews, both internal and external. The Munro Review was tasked specifically with considering how the United Kingdom's version of such investigations/reviews (called serious case reviews) could be improved. It notes that the serious case review model has come under significant criticism for creating a process in which people are fearful and unsupported. Ofsted, the UK oversight agency, concluded: "Serious Case Reviews were generally successful at identifying what had happened to the children concerned, but were less effective at addressing why."[73]

Investigations and reviews typically focus on allocating blame for what happened (generally focused on the professionals involved) and are prescriptive in their response. As noted above:

> [t]he problem with such a prescriptive approach is that without sufficient understanding of what is making it difficult for staff to comply to certain standards or procedures in the first place, renewing and revising those procedures or reminding professionals of their existence, is unlikely to be effective in securing or sustaining the desired change.[74]

Such an approach then will not support a shift to human-centred care. The shift requires a change in the blaming culture that leads people to be protective and defensive rather than open and transparent in the efforts to determine what happened and why. The Restorative Inquiry has modelled and determined the need to replace this blaming culture with a culture focused on learning and understanding. It is instructive that Munro's comprehensive assessment of child protection in the UK came to this same conclusion. Munro presented the case for moving from a compliance to a learning culture. She argued that:

The Restorative Inquiry has modelled and determined the need to replace this blaming culture with a culture focused on learning and understanding.

> The complexity of the multi-agency child protection system heightens the need for continual and reliable feedback about how the system is performing. This is in order that organisations can learn about what is working well and identify emerging problems and so adapt accordingly. Such a learning culture is needed both within and between agencies. It needs to include people at all levels in organisations, from the frontline workers engaging with families, to the most senior managers in hierarchies. Mechanisms for generating organisational learning are therefore also valuable forms of multi-agency training. These provide opportunities for people to better understand their relative roles and areas of expertise across agencies and how they can best work together and support each other in their common goal of helping children and families.[75]

As discussed at length in Chapter 4, similar concerns about the traditional approach of public inquiries motivated former residents to seek a different path through this Restorative Inquiry. Through this Inquiry process, participants have come to understand the significance and opportunity of a learning culture for responding to failures of care and supporting a successful system of care.

Through this Inquiry process participants have come to understand the significance and opportunity of a learning culture for responding to failures of care and supporting a successful system of care.

Notable for the next element in the shift to human-centred approach, one of the concerns expressed by Ofsted's regarding the effectiveness of serious case reviews was the lack of involvement in the processes by those affected — by children, young people, and their families. This speaks to the need for professionals to share control and authority with young people and their families.

V. From Professional Controlled to child/family/community led

FROM professional controlled → **TO** child/family/community led

Social workers and other professionals within the current child protection system are called on to balance the rights of children to have a voice and be safe, the responsibilities of parents to care for their own family, and the role of the State to intervene in family life when the child's safety requires it. How to strike this balance is often unclear and highly contested. Courts are generally ill equipped to deal with the inherent tensions in this work, so professionals within care agencies are expected, but often not required or held to account, to work in partnership with children and their families. Partnership is a central theme in many child protection policies and is reflected in most of the recent reviews and reforms. Paul Nixon shared with the Inquiry his assessment that across child welfare systems, statutory social workers have been slow to engage the kinship, social and informal networks around children. A lack of involvement by family, leaves families feeling uncertain or uncommitted to plans imposed on them by social workers, which is often then misinterpreted by social workers as a lack of family commitment to children. This cycle of mistrust and misunderstanding leaves both sides expecting the worst of each other. There is a significant body of research and knowledge to show how effective collaboration around and with children is more effective.

As we heard in the Inquiry, Nova Scotia is similar in its stated commitment to partnership and the struggle to realize it in practice. For example, there is a clear commitment to partnership in the transformation agenda underway within the Department of Community Services. This commitment to partnership clearly aims to ease the tension among the different rights, responsibilities, and roles involved in care. However, on the ground this idea or commitment to partnership in Nova Scotia (as elsewhere) is an idea in search of an approach to practice that would make it real.

This element of the shift should not be read as a criticism of professionalism in social work or elsewhere. We have come to appreciate the significant contribution of knowledge and expertise by social workers and other professionals in the system of care. However, we have also learned that the shift to a human-centred approach requires attention to the role professionals play and how they play them within the system of care. A system-centred approach results in decision-making and the processes through which decisions are made being largely controlled by professionals working for the system. This is a characteristic of the approach of the system and the way it structures the role and relationships of professionals, rather than inherent in the nature of professionals. Professionalism, in and of itself, is not the issue. Rather, it is

> **Professionalism, in and of itself, is not the issue. Rather, it is how professionals are captured and deployed by a system-centred approach in service of system imperatives that is the issue.**

how professionals are captured and deployed by a system-centred approach in service of system imperatives that is the issue. Ian Hyslop sees this reflected in the significant move to a management approach within the system of care, and to social work, teaching, and other caring professions in recent years.[76]

The shift from system-centred then does not call for a shift away from knowledgeable and skilled professionals but it does entail a transformation in their role and approach. It would refocus the knowledge and efforts of social workers and other professionals to work *with* and *alongside* families in support of their decision-making and plans and not that of the system.

VI. From institutional/stranger care to care by family/friends/community

FROM institutional/stranger care → **TO** care by family/friends/community

One of the significant elements of the shift to a human-centred approach and the different understanding of care it brings is a recognition of the importance of supporting care within family care networks. Elisabetta Carrà describes this approach using the term "personalization." She explains:

> Personalization, an innovative model to design human services, has started to spread in European welfare regimes since the early 2000s: referring to 'person' rather than an individual highlights that the human being is a subject embedded *within* a network of relations, beginning with *family*…[77]

Carrà contrasts this approach with the significant move within modern welfare regimes to what she calls "defamilization" which strives to "make individuals independent from family and intergenerational relationships." This approach views "family social capital as a hinderance rather than a facilitator of social wellbeing."[78] Interestingly, she identifies this view with, among others, the Swedish welfare State, a State that is generally considered one of the most advanced in the world. Her insight here is an important one for the shift we seek to support. While the Swedish approach to welfare is often described as socialist because of the central role of the State in the provision of social care, it is not, Carrà argues, collectivist — or relational. In fact, she points out, its "welfare policies and family law are aimed at making individuals autonomous from family (women from men, children from parents, elderly from young people)."[79] This individualism then pits family norms against community norms and, thus, views families as a threat to State power and control. This is an important insight about the shift that is needed in terms of the role of the State supporting and empowering families and communities rather than replacing them. As Carrà argues, it requires ensuring "family relations and their wellbeing are the cornerstones of policies,

programs and practices."[80] This will require sharing power and authority with families and other relational networks in the provision of care. At the core of this shift is a recognition that "individuals wellbeing is closely interwoven with their family relationships' wellbeing and it cannot be pursued unless a family lens has been adopted and the whole family is engaged in the process of producing wellbeing."[81] This entails a shift in focus then from individual well-being to "relational well-being."

This would shift the norms and ideals of the system of care away from care by institutions and strangers as the primary focus of the system to facilitating and resourcing care by family and friends. It would require a shift from care by the system as the norm to community-based care. This does not mean there would be no role for institutional care in a human-centred system, but such care would never be primary or the default mechanism. Even when such mechanisms are required, they would not replace or oust the involvement of family and care networks.

The shift to human-centred care requires significant investment and support of kinship (family) care as central to the system of care. The move to kinship care is about more than de-institutionalization or changing preferred placement options. It entails a reorientation of the system of care akin to the shift we propose to support the conditions required for successful kinship care.

In 2007, Nixon's study on kinship care noted that:

> Kinship care – also known as relative care, network care, kin care, and often called family and friends care in the UK – is attracting increasing international interest. This common child-rearing practice exists in families and communities throughout the world, but there is now a distinct re-emergence of professional and political interest in this type of care for children who cannot live with their parents.[82]

The meaning of "family" in kinship care is broadly defined. Nixon explains that "contemporary professional orthodoxy tended to reduce the concept of 'family' to parents … children and parents often perceive their family in broader terms, seeing relations and friends as natural networks and sources of support."[83] Kinship care generally aligns with families' own sense of their relational networks. It is not typically limited to immediate family or even relatives. It can include friends or other people so long as they have a connection to the young person. New Zealand's law, for example, defines kin care as "inclusive of a wide family group and states the importance of the child's psychological attachment to carers. The family group can include anyone to 'whom the child has a significant psychological attachment'."[84]

Nixon's study of kinship care found that it "offers a good placement choice for many children, but places significant burdens on carers." This burden, however, is not inherent to the nature of this type of placement, nor is it inevitable or insurmountable. Nixon attributes the burden on kinship carers to the failure of systems to adequately support such placements. Given the importance of

Given the importance of connection to family for young people's wellbeing it is incumbent upon a human-centred system of care to attend to the particular needs for kinship care to succeed.

connection to family for young people's well-being, it is incumbent upon a human-centred system of care to attend to the particular needs for kinship care to succeed. Nixon concludes that "we may need to re-think how we best organise practice and services for kinship care. … It may require a distinct policy and service framework that delivers unique financial and support arrangements. And it may suggest a different type of social work assessment and practice tailored for kin care."[85]

There has been more attention and developments with respect to kinship placements since Nixon's comprehensive review of research and practice in 2007. These include significant developments in many jurisdictions (as discussed further below) with respect to processes supporting family-led decision-making that have increased options for kinship care. This increased use of kinship care has not generally received, however, the specialized attention and support Nixon recommended.

The move to prioritize kinship care within the system of care will require shifts in how the system of care operates. It will require, as identified in the overall shift from system to human centred, the shift **from hierarchical & imposed solutions and plans to those that are negotiated and collaborative and reflect collective responsibility and action**. The processes, practices, and the resulting plans cannot **then be driven by and reflect the culture of the system, but, rather, must reflect the culture of the families and community involved**.

VII. Supporting Kinship Care: Essential Elements

The central role of kinship care is essential to a human-centred approach to care. As we have discussed in this section, the shift to human-centred care will require significant changes in the approach, structure, policies, practices, and operation of the system of care, broadly conceived. Considering the move to kinship care during the Inquiry deepened our understanding of the implications of the shift to a human-centred system of care. It revealed several key aspects as essential for such a shift to succeed. The Inquiry identified and considered the following aspects key to kinship care:

1) ***Care oriented to the needs of children, young people, and families***
2) ***Shared responsibility for outcomes that matter for young people and their families***
3) ***Sharing information***
4) ***Trust across systems and with young people, families, and communities***
5) ***Value placed on stability through relationships not placements***
6) ***Power to make decisions/plans rests with families not systems***

Below, we have shared our learning and understanding of each element for the success of kinship care and its essential role in the overall shift to human-centred care. The insights shared in these sections are of general importance then to supporting a shift to a human-centred approach. However, the following sections are particularly important in terms of information and examples to supporting the application and implementation of the commitment to family-led decision-making described in the Chapter 7.

i. Care oriented to the needs of children, young people and families

The shift to a human-centred system will require organizing system resources to meet the needs of young people and their families. As discussed earlier in this Chapter, this requires more than being "client-centred." In the context of child protection, this individualized approach can result in a focus on the needs or "best interests" of children in contrast, or opposition, to the needs of parents or families. This focus fails to appreciate the relational nature of children and care. Orienting the system of care to the needs of young people must start from the recognition that young people cannot be approached as isolated individuals but in the context of the relationships that are central to who they are and to their well-being.

This requires what the UK Department for Education's Innovation Programme refers to as a "whole family approach," which is deeply reflective of the relational approach advocated within the Inquiry.

> The whole family approach means that adult behaviours and needs are seen as important to address alongside those of the child. Many models also take a strengths based approach to working with whole families, where families are seen as part of the solution and not part of the problem, being actively brought in to co-develop solutions with professionals. Relationships are prioritized over transactions, and the strength and qualities of relationships promoted within families must be mirrored in those between families and services, and within practitioner teams.[86]

ii. Shared responsibility for outcomes that matter for young people and their families

A human-centred approach places children and young people (and their connections to family and community) at the centre. This means meeting these needs is the driving purpose and aim of the system of care and its work. This requires a revision of the outcomes sought by the system and against which its success is judged. We came to understand through the Inquiry, the powerful role outcomes play in orienting systems. Outcomes reflecting system purposes and goals, and not those of the people the system is mean to care for, have had a powerful influence on how systems operate.

Supporting a shift to a human-centred system then requires defining an outcomes framework centred on what matters to children and young people and their families – on what well-being means to them. This framework should guide the system of care. It is important to be clear that by "outcomes" we mean something different than actions. Outcomes are the result of an action. In the context of the system of care, actions are what we do: the processes, services, and support. Outcomes identify the difference we are trying to make through these actions. As explained by the What Works for Children's Social Care Initiative, outcomes "tell us what works — and what doesn't work. In setting out our approach to outcomes we're also outlining our understanding of the purpose of Children's Social Care."[87]

Supporting a shift to a human-centred system then requires defining an outcomes framework centred on what matters to children and young people and their families – on what wellbeing means to them.

Several jurisdictions have begun to consider the significance of such outcome frameworks in the context of social care for children and young people. We do not point to these examples because we think they are perfect or ready-made models. Indeed, it is clear from these efforts that engagement with children, young people, and families is essential to create such outcome frameworks. These examples are, however, helpful to illustrate the shift in orientation of outcomes from the systems to the humans involved. New Zealand, for example, developed "wellbeing domains" as foundational to their strategy for their Children and Youth Wellbeing Strategy. In his submission in response to the strategy, the Children's Commissioner acknowledged that well-being is a complex idea that is hard to define. Based on a lengthy review informed by the views of young people, he offered the following definition of well-being (note that the word whānau in the following definition is a Maori word meaning extended family relations):

It is clear from these efforts that engagement with children, young people and families is essential to create such outcome frameworks.

> Wellbeing is a positive state and not simply the absence of negatives. Children experience wellbeing when their family and whānau are connected and united; relationships within and beyond the family and whānau are thriving; family and whānau members support each other; there are opportunities for individual and collective growth; and all members of their family and whānau have their needs met. A community has achieved child wellbeing when all children and their whānau have their rights fulfilled and the conditions are in place to enable all children to participate in society and plan, develop and achieve meaningful lives. [88]

The Commissioner developed a graphic called the "Child Wellbeing Wheel" that shows the different areas that matter for well-being. It places children's participation at the centre to signal it is essential in all areas.

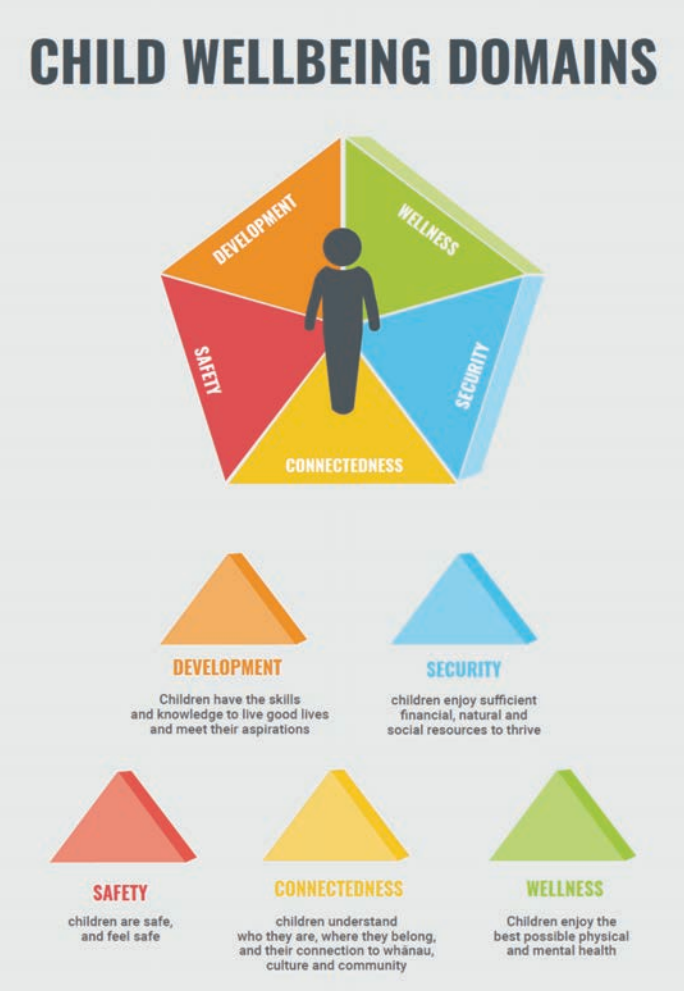
In its recent guidance for professionals working in relation to care for young people, the New Zealand Government offered the following description of well-being and its relationship to safety (often the central focus of child protection). It explained:

> One way to think about safety is as a part of wellbeing, not a separate thing. If there is a safety issue then [young people's] wellbeing will be affected. But not all wellbeing issues are safety issues.
>
> [Young people's] and whānau lives vary and can be complex. There are different combinations of resilience, strengths, supports, needs, and risks that need to be considered together when thinking about worries for [young people's] wellbeing or safety. Concerns for their wellbeing or safety could be because of a one off event or because of a series of events over time.
>
> The idea of wellbeing covers a broad group of things that come together in a holistic way. They are things that relate to the welfare of [young people], help them to thrive, feel supported, safe, loved, and have a positive sense of who they are and where they belong. Exactly how wellbeing looks is different for each [young person] and whānau because in many ways it's a very personal thing. Wellbeing can include things like:
>
> - strong positive whānau relationships
> - spiritual and cultural connections
> - having their developmental needs met and supported – education, behaviour, life skills and selfcare skills
> - emotional resilience and support
> - social and peer groups that are supportive, caring and positive
> - physical and mental wellness
> - security – being safe from harm, living in a safe community, having a warm dry home, having enough food.

The well-being strategy developed by the New Zealand Government focused on five domains reflective of these aspects of well-being. Notice the domains are structured hierarchically in order to indicate those needs that might require more urgent attention compared to those that may warrant a more measured, long-term response.

This model is helpful in highlighting an approach to outcomes that is human-centre d rather than focused on system priorities and goals. It orients systems to outcomes important for children and youth.

The recent Nova Scotia Quality of Life Initiative (based on the Canadian Wellbeing Index developed at the University of Waterloo[89]) being led by Engage Nova Scotia might also provide important insight into developing the process and substance of such outcome measures.[90]



The recent report by the New Zealand Children's Commissioner, however, offered an instructive and helpful reminder that merely shifting the outcomes to focus on children will not make the difference we seek if it remains focused at the individual level. As discussed, the shift to a human-centred approach must focus on human beings as relational and interconnected. It cannot simply replace the goals of the system with those of individual clients or consumers. It is intended to shift from an individualistic view to a relational one. The Children's Commissioner in New Zealand argues that the current approach to the well-being domains is problematic on this front. After expressing his concern, he recommended:

> …the addition of an extra wellbeing domain, or re-organisation of the existing domains and desired outcomes, to reflect the emphasis that needs to be placed on whānau/family wellbeing in order to achieve child wellbeing. If adding a separate new domain, we suggest "Children and young people are

> part of thriving whānau/families" and redistributing the desired outcomes as appropriate. If amending the existing domains we suggest "Children and young people are loved, nurtured and safe in thriving whānau/families."[91]

The What Works for Children's Social Care Initiative in the UK developed an outcomes framework that recognized the significance of outcomes for children and young people and for parents, carers, and families.[92] Their outcomes framework also recognized the importance of identifying system outcomes that are key to achieving the outcomes for young people and families. They acknowledged the danger that these may overshadow or replace the human-centred outcomes. To address this concern, the framework distinguished between "primary" outcomes (those for children and families) and "intermediate" outcomes, which are organizational factors that are key to achieving the primary outcomes. This approach ties the system outcomes to the primary focus on outcomes for young people and families.

The What Works outcomes framework draws another very helpful distinction — one between rights and outcomes. This is a very important clarification in the context of systems of care. The risk of outcomes frameworks is that they assess the success of systems of care according to whether the system/program/service "works" as judged according to whether they deliver or achieve the outcomes. The problem with this utilitarian approach to measuring success is that it suggests the value of working in these ways is related to what they produce (outcomes). It undermines then the idea that there is inherent value in attending to the voice of children or ensuring connection to family and community even if it does not produce some sort of outcome — if it cannot be shown to "work" by some measure. This approach is particularly problematic when outcomes are determined by the needs of the system and not the people it serves.

The revision of outcomes from system to human focused is somewhat better on this front in that the measures are attentive to what works *for* children and young people. However, it is still potentially problematic to obscure the rights-based nature of the entitlements of children and young people to have their voices heard in decision-making and to have their relationships with family and community protected. There is inherent value in these rights whether they can be shown to achieve some outcome or not. Indeed, they are human rights because they "work" to recognize and realize inherent human dignity and respect. The rights of children and young people, as articulated in the United Nations Convention on the Rights of the Child (and reflected in Canadian law), are foundational to the relationships required to achieve well-being and, thus, are to be fulfilled and respected regardless of whether a particular outcome is produced. In other words, rights must structure or set the parameters for *how* such outcomes should be pursued.

We must be very careful, then, that the move to outcomes frameworks, as helpful as they are to orient and assess the system of care, do not undermine commitments to the rights of children and youth. For example, we cannot determine that ensuring children and young people have connections to family is not "working" according to outcome-based measures as a reason not to do it. Insofar as these are rights, we need, instead, to ask how we can *make it work* in order to secure the outcomes that matter for children and young people.

The City of Leeds in the UK articulated outcomes focused on children and young people and considered systems roles and responsibilities towards these outcomes through the identification of priorities and indications related to achieving the outcomes. Leeds did this as part of its commitment to be a "child friendly city," that is, to orient the city around meeting the rights and needs of children and young people. Doing so, they realized, requires attention to families and communities because "Children live in families. Families create communities. Communities create cities."[93] The city's current business plan has updated its approach to Leeds as a "child friendly city." The work to transform the city through this human-centred approach focuses on the well-being of children and youth is anchored in a commitment to five outcomes, pursued through eleven priorities with a particular focus on three obsessions and assessed through cross sector/system indicators of how they are doing. The outcomes for children and youth, thus, orient and guide the system of care and the very idea and identity of the city.

As one can see on the one-page plan reproduced on the following page, Leeds' five outcomes reflect the conditions of well-being they want for all children and young people. They were developed in consultation with children, young people, and their families. The plan lists eleven priorities in order to achieve these outcomes.

A plan was developed for how Leeds will go about securing these outcomes in connection with the priorities. The plan then identifies indicators that reflect the responsibilities and contributions across systems and programs. The indicators help answer the question: How will we know how we are doing? The Leeds plan looks for evidence of progress and success through these indicators. This is all captured in an overall plan that guides people, policies, and programs connected to caring for children and youth.

The outcomes identified by children and young people for what well-being means have remarkable resonance across jurisdictions. The Inquiry heard from former residents and young people with recent experience with the care system whose articulation of what matters for well-being echoed the voices of young people elsewhere.

It is important that outcomes frameworks are based on the views of children, young people, and families. This ensures the system of care has a shared understanding of the outcomes that matter to those they care about. In doing so, it centres the system's notion of care and efforts to provide it on human needs and interests. Such outcomes are also important to overcoming silos

Leeds Children and Young People's Plan 2018-2023

What we'll do

1 One vision

Our vision is for Leeds to be the best city in the UK and the best city for children and young people to grow up in. We want Leeds to be a child friendly city. Through our vision and obsessions we invest in children and young people to help build an increasingly prosperous and successful city. We aim to improve outcomes for all our children whilst recognising the need for outcomes to improve faster for children and young people from vulnerable and deprived backgrounds.

5 Five outcomes

Conditions of well-being we want for all our children and young people

All children and young people:

1. are safe from harm
2. do well at all levels of learning and have skills for life
3. enjoy healthy lifestyles
4. have fun growing up
5. are active citizens who feel they have a voice and influence

11 Eleven priorities

1. Help children and parents to live in safe, supportive and loving families
2. Ensure that the most vulnerable are protected
3. Support families to give children the best start in life
4. Increase the number of children and young people participating and engaging in learning
5. Improve achievement and attainment for all
6. Improve at a faster rate educational progress for children and young people
7. Improve social, emotional, and mental health and wellbeing
8. Encourage physical activity and healthy eating
9. Support young people to make good choices and minimise risk-taking behaviours
10. Help young people into adulthood, to develop life skills, and be ready for work
11. Improve access to affordable, safe, and reliable connected transport for young people

3 Three obsessions

1. Safely and appropriately reduce the number of children looked after
2. Reduce the number of young people not in education, employment and training
3. Improve achievement, attainment and attendance at school

Helping deliver the Best Council Plan and our Best City ambition of a strong economy in a compassionate city

How we'll do it

The best start in life for all children
Before and after birth, we will support parents and babies to create the conditions where stress is reduced, positive bonds and attachments can form, and language and communications skills develop.

Think Family Work Family
We will consider family relationships, the role of adult behaviour, and the wider context such as friends and the local community, and how these impact on outcomes for children and young people.

Attaining and Achieving
Learning underpins wellbeing; we will place a disproportionate focus on learning, and readiness for learning, so we narrow the gap, and enable all children and young people - particularly those learners who are vulnerable to poor outcomes to realise their potential.

Challenging Child Poverty
In acknowledging the scale and impact of poverty on families, we will work with communities and families to mitigate the impact of poverty on children's outcomes and support children's journeys into secure adulthood in a prosperous city

Outstanding social work and support
Continuing our journey to outstanding following the 2015 Ofsted inspection, our Families First programme, and our investment in social work, we will ensure consistent quality across all our work with vulnerable children and young people.

Early help – the right conversations in the right place at the right time
Building on what works well, and reorganising more of our services around the Restorative Early Start (RES) approach, we will focus help to where it is needed earlier.

A stronger offer to improve social, emotional and mental health (SEMH) and well-being
We will redesign the whole system of SEMH and wellbeing support, and create simple pathways with clear points of entry to an integrated offer from education, health and social care services, which is personalised to individual needs.

We are child friendly Leeds

Behaviours that underpin everything we do

- **Use Outcome Based Accountability, and ask the question: is anyone better off?**
- **Use restorative practice to work with people, not do to or for them**
- **We listen and respond to the voice of the child**
- **We support and prioritise children and young people to have fun growing up**

How we'll know if we've made a difference

1. Number of children looked after
2. Number of children subject to a child protection plan
3. Number of parents that have had more than one child enter care at different times
4. Number of children in need
5. Pupils achieving a good level of development at the end of the Early Years Foundation Stage (end of reception year)
6. Infant mortality rates
7. Newly created school places in good and outstanding schools
8. School attendance
9. Fixed-term exclusions from schools
10. Pupils reaching the expected standard at the end of Key Stage 2 (end of year six)
11. Progress 8 score for Leeds at the end of Key Stage 4 (end of year 11)
12. Destinations of young people with special educational needs and/or a disability when they leave school
13. Progress against measures in the Future in Mind dashboard
14. Children that are a healthy weight at age 11
15. Young offenders that re-offend
16. Under-18 conception rates
17. Under-18 alcohol-related hospital admissions
18. Students achieving a level 3 qualification at age 19
19. Young people not in employment, education, or training, or whose employment status is 'not known'
20. Transport for young people indicator to be developed after further discussions with young people

Outcomes centred on the needs of children and youth do not belong to one system or another but require a shared/ collective responsibility.

and fragmentation and supporting an integrated system of care. Outcomes centred on the needs of children and youth do not belong to one system or another but require a shared/collective responsibility. Children's and young people's needs are seldom carved up according to the mandates and jurisdiction of different systems, institutions, organizations, or departments. They are often global in their application — for example, the need for love, to ensure connections to family are protected, to have information about their lives, and to be supported in making a plan for their own future, etc. These are not outcomes that apply only to young people in the child welfare system, but also to young people when they are in education, justice, or health systems. Indeed, many goals require collective efforts across these systems to achieve because they cannot be met in one system and not another without harm or undermining outcomes all together. Outcomes thus can provide common goals and orientation across various systems and services. They provide a foundation for collaborative and collective work.[94]

Outcomes can provide common goals and orientation across various systems and services. They provide a foundation for collaborative and collective work.

iii. Sharing information

As discussed in Part I of this Chapter, silos are sometimes described as information silos. This is because of the significant role that information plays in governance and operations. Breaking down barriers to collaboration and working in integrated ways will require careful attention to ensuring information is shared. It is also clear that more than access to information is required. Integration requires shared understanding of information and its significance for care. How information is shared and communicated is, therefore, important. The importance of this issue was very clear during the Inquiry. Participants across sectors and systems, from Government and community-based agencies, pointed to information sharing as a significant barrier to a human-centred system and the integration and collaboration it requires. Participants identified real and perceived barriers to sharing information. Many believed that sharing information in the ways required for such integration and collaboration would be in tension (if not conflict) with privacy law and policy. The impact of this concern with privacy seems to extend far beyond the actual intentions or parameters of the law. It is a function of the policies, practices, and attitudes through which the law is interpreted and applied. Those with knowledge and

Breaking down barriers to collaboration and working in integrated ways will, then, require careful attention to ensuring information is shared. It is also clear that more than access to informationis required.

experience in privacy law and policy acknowledged that the use of privacy as a reason not to share information often reflects misunderstandings of the intentions and parameters of the law. It is a matter of culture as much as law. They also expressed concern about a lack of clarity in the current legislation regarding how and in what instances and circumstances information can be shared. In their view, this lack of clarity has had an impact on the sharing of personal information.

Participants from Government readily recognized the need for access to information often held by other systems, and, at the same time, were protective of information they or their systems held. There was a clear recognition of how essential information and understanding is to care — for all those involved including systems, professionals, children, young people, and families.

Information is also fundamentally important for carers and for those being cared for. Young people and families cannot make plans and decisions about care, or fully engage with their care, without information. During the Inquiry, we heard from young people with experience in the care system about their frustration with the lack of information shared with them about their own lives. Former residents also shared how difficult it has been to gain access to information about their time in care. Caregivers, too, express concern about access to information needed.

The Family Rights Group in the UK, in their submission to the Munro Review, identified lack of information as one of the barriers to family engagement with the care system and in care decisions regarding their children.[95] Research confirms the need for carers (family or foster) to have more access to information.

> A lack of information disadvantages carers who may be unaware of services and the choices available to them.
>
> Carers need information that outlines roles, responsibilities, rights, support services and financial assistance, but they find it very hard to obtain such information (Richards 2001, Broad 2001). Children also expressed a need for more information about their placements and the support available (Doolan et al 2004).[96]

The New Zealand guide for information sharing identified the importance of involving young people in decisions to share their information.[97] Doing so centres those whose interests and needs are often being guarded by the use of privacy laws and policies. One of the significant impacts of the way information is controlled by systems is not just the silos it creates within government, but the resulting silos between government and community and between systems and those affected/involved with the system (carers and young people).

The shift to a human-centred system of care requires an approach to information sharing that is consistent with the relational purposes and principles core to such a system. Information

The shift to a human-centred system of care requires an approach to information sharing that is consistent with the relational purposes and principles core to such a system. Information must be shared in ways that facilitates and supports integrated working and collaboration

must be shared in ways that facilitate and support integrated working and collaboration. It must also adhere to the importance of information to empowering children, young people, and families to be active participants in decision-making and care planning.

It is important that legislation, policy, and practice related to information sharing is clear and consistent with a human-centred approach. New Zealand recently developed a guide for information sharing sought to enable "[s]afe and appropriate information sharing [that] will ensure everyone working with tamariki [young people] can collaborate in the best interests of the child." It is aimed at professionals working within or alongside the child welfare system. It is anchored in the belief that "Information is always a real person's story, life and experience. It should be respected and cared for in the same way we respect and care for people themselves."[98] The information-sharing provisions apply to government and non-government services and agencies working in a wide range of areas related to care, including education, health and medical services, social services, family supports, youth services, indigenous social service organizations, cultural social services, recreation, housing, justice agencies, etc. Further, the document is clear about the importance of providing *guidance* rather than strict rules and procedures to ensuring support for care that is responsive to the circumstances and needs of those involved. It acknowledges, for example,

> Professionals don't always have the same ideas about information sharing because of their different functions, roles, skills and purposes. That's why it's important to use this guidance, consider the context of the situation, talk with each other, get advice, use your organization's policies and, where it is appropriate and possible, talk with tamariki [young people] and whānau [family] when you're making decisions about sharing.[99]

It is important, though, to ensure that information sharing is done in the context of a shift in the system to be human-centred. While we clearly heard that privacy law and policy get in the way of integration and overcoming silos, it is important to acknowledge that this protection was developed for good reasons. Privacy protection provides a check on the power of systems that exercise authority and control and are often driven by their own interests. The protection seeks some measure of assurance about the reasons why, how, and when information will be shared.

Privacy protection provides a check on the power of systems that exercise authority and control and are often driven by their own interests. The protection seeks some measure of assurance about the reasons why, how and when information will be shared.

Ian Hyslop also expressed concern about the sharing of data and information about families in the context of current systems oriented towards blaming individuals (particularly parents) for failing children. In this context, attention to information sharing is often used in support of increased surveillance, including reporting on young people and families. Hyslop was particularly critical of the New Zealand White Paper in this regard, as he worried about the move to share information about young people and families across systems unmoored from any real change in the orientation of the system.[100]

Information sharing alone, then, will not effect a shift to a human-centred approach. However, it plays an important part in such a shift. It is also clear that information sharing in support of this shift requires attention to the nature of relationships within and with the system of care. Trusting relationships play a significant role in ensuring information is shared and in such a way that it can support human-centred care.

Trusting relationships play a significant role in ensuring information is shared and in such a way that it can support human-centered care.

iv. Trust across systems and with communities and families

What came through clearly during the Inquiry is that silos, at least in part, reflect the lack of trust that characterizes relationships within the current system of care. This lack of trust is fed by a lack of knowledge and understanding of others (by other systems, by the system of families and communities, and by families and communities of the system). This lack of trust then results in a lack of communication and unwillingness to share information and knowledge. It is a reinforcing cycle that makes it difficult to shift to integrated and collaborative models of care.

As discussed earlier in this Chapter, trust in relationships is also undermined by the system's focus on risk and blame in response to problems or mistakes. The resulting fear of failure leads to defensiveness and protectionism that erodes the trust that is essential for systems to work in integrated and innovative (responsive) ways.

In is perhaps significant that the Inquiry process itself — as a restorative process engaged in building relationships among parties and that responded to failure with a learning approach — modelled information sharing within the process. As a result, participants engaged in open and honest discussion within the process about the need to overcome information-sharing barriers in the system of care.

v. Value placed on stability through relationships not placements

The system's desire for certainty (and risk avoidance) has not only influenced the system of care, but also the system's view of care itself. Good care has thus come to be associated with certainty for children and young people in the form of stability (often sought through permanence). As discussed in Chapter 5, this concern was evident in the early preference in

child welfare in Nova Scotia for placing children in foster care over institutional care. The initial vision of institutions as ideally suited for short-term care and the move to deinstitutionalization in Nova Scotia were driven by, among other things, a concern for stability. Child protection in Nova Scotia continues to reflect this concern, including in the recent amendments to the *Children and Family Services Act* to ensure a faster timeline for placement and permanence. The concern, here, is not with the idea that stability is important for children and young people. In fact, we heard from former residents and young people with experience in care about the difficulties of being moved frequently from placement to placement. We also heard about their experiences of constant changes in assigned social workers resulting in little or no stability in terms of a caring adult presence in their lives, and, in terms of their relationship with the system. Clearly, stability is an important value for care. However, the current system-centred approach seeks stability in terms of system outcomes, that is stability or permanence of placements or care arrangements. However, this notion misses that the nature of stability required for well-being is not to be found simply in the certainty of arrangements of care. Stability comes from the certainty of supportive relationships. Things can and do change; the value of stability is related to those factors and elements that allow for resilience amid change. Given the uncertainty of children and young people's lives generally, and particularly those who need support and care, stability in terms of permanence may or may not result in well-being.

What is clear from the learning and understanding during the Inquiry is that a human-centred system requires an approach to stability that views it as being about relationships rather than care plans and placements. Viewing it this way shifts the idea of what is required to ensure stability. Valerie Braithwaite's notion of "social scaffolding" points to the importance of building relationships and the capacity for relationship as a key part of what is required for stability.[101] She explains that building the social scaffolding needed for well-being requires learning how to be regulated by others and oneself and to use social scaffolding to build one's character and understand social life. Such social scaffolding then provides stability through the changing circumstances of life as a young person and into adulthood.

Likewise, the New Zealand White Paper identifies social capital as a protective factor for young people, noting it has been demonstrated by a number of studies to be associated with positive child well-being.[102] Stability of relationships then is important not only in the relations between the young person and the carer, but also surrounding the young person and the carer. Stability of relationships also does not require that relationships remain unchanged. In fact, the inability for relationships to develop and adapt according to the changing needs of those within them is often part of what creates significant care issues. Stability then is secured through the maintenance of relationships as the constant to be relied upon. Stability of relationships is also stronger when there is interconnection amongst relationships of care — when relationships form a web of care. The shift to a human-centred approach recognizes that stability is to be found by fostering and supporting relationships of care.

vi. Power to make decisions/plans rests with families not systems

The significance of relationships for stability and care requires that building and maintaining relationships be prioritized as central to the system of care. This requires mechanisms that can ensure a meaningful role for those within the web of caring relationships surrounding a young person. Care then requires support for relational networks of care (families and connected others who care) to take up a leadership role in planning for and providing care. This cannot be led or controlled by the systems. This will require a significant shift in which systems share authority with families while retaining their responsibility to support and ensure the success of care plans for young people. It will entail a shift from doing things *for* families or (often when they are non-compliant) doing things *to* them, to working *with* families. This requires a significant shift in terms of power and authority. For the system to work *with* families, it must empower families (including the young people concerned) to make decisions regarding care. Of course, this power should not be unchecked. The State still has an obligation to ensure the safety and security of young people. However, the State can meet its responsibility by ensuring safeguards within the family's decision-making process, rather than taking over as the decision maker. Ensuring families have the power to participate meaningfully in decisions about care also requires support for the decisions and plans they make.

Care then requires support for relational networks of care (families and connected others who care) to take up a leadership role in planning for and providing care.

Involving young people and their families as decision-makers about care is a fundamental feature of the shift to a human-centred system. The New Zealand White Paper notes that "service planning that involves community helps reduce fragmentation."[103] It enables what the Munro Review describes as an "integrated response of all who care about/for the child."[104] However, for family engagement in decision making to reflect a genuine shift, it must be about more that efficient and effective coordination — for example, as a sort of one-stop shop for family and community views to be heard by different systems. While such coordination may bring the silos together and potentially reduce fragmentation, it would not necessarily overcome or reduce silos. Doing so requires integration, not just coordination. Instead, decision-making involving the family must be oriented to meet the needs of the young person and family, not the system. It must be for the family and by the family, which requires that such decision-making be family-led.

The idea of family-led decision-making is a commitment and approach that is core to a human-centred system of care. Family-led decision-making will require mechanisms and processes (such as the most familiar model: family group decision-making); it is not merely a process option but a value that shapes the approach of the system of care. Family-led decision-making is, therefore, best understood as an expression of the relational, restorative, human-centred approach we have been discussing.

The idea of family led decision-making is thus a commitment and approach core to a human-centred system of care.

The involvement of family in decision-making about care has been shown to make placements with family (immediate, extended, or others among the young person's care network) more likely.[105] It also protects and maintains a young person's connection to family whatever the plan for living arrangements. It makes kinship care more likely and possible.

Family-led decision-making entails a shift in approach for the system and those professionals working within the system. As Nixon explains:

> In practice, practitioners are used to working with decision-making models that, conceptually and physically, are dominated by professionals. Family Group Conferences (FGCs) are one effective way of changing this by bringing families together to make shared plans for children. The systematic application of FGCs would ensure that families are fully involved in decision making and that possible kin placements are not overlooked. The FGC would enable families and professionals to collaborate, organise appropriate supports and decide how to deal with any issues of conflict.[106]

The experience of jurisdictions around the world has shown that family group conferences (as a model of family-led decision-making) are one of the strongest models of partnership and inclusive practice and that they provide children and their families a genuine opportunity to take up their rights and responsibilities in decision-making about their own lives. Family-led decision-making mobilizes networks of family and friends to help find solutions when families are facing difficulties.

It is important to be clear here, though, that family-led decision-making does not aim to simply substitute the family in place of the system in terms of its approach to making decisions for or about young people. This would generate the concern that some have expressed about family interests and needs being privileged over young peoples'. Indeed, this concern has been a driver for the idea of "defamilization" discussed earlier in this Chapter as the need to liberate individuals from families based on the view that independence is essential to well-being. This adversarial notion of family interests vs. best interests of the child misunderstands the intention of family-led decision-making and the underlying approach it reflects. It is not about substituting the family as the centre of concern, but fostering and supporting the sort of family relationships children need to be well. The commitment to family-led decision-making is intended to take seriously the empowerment of networks of care as core to supporting well-being.

It is important to be cautious of the ways in which family-led decision making could be captured in service of other ends. This includes the potential for the idea of family "empowerment" to be a means of off-loading State responsibility for care, rather than ensuring State support for family-care plans. This concern looms particularly large in the face of austerity measures. Family-"led" decision-making about care should not leave families with all the responsibility for social care. It is

not aligned with efforts by some States to turn over their welfare responsibility to private interests and families.[107] This would run counter to the shift we seek to a human-centred system. Indeed, the history of the Home demonstrates the significant harms that can result by privatizing interest in care. Leaving care to the private means of families and communities is particularly problematic for marginalized communities who must rely on limited means or charity for resources.

VIII. Understanding What's Needed to Support a System Shift:

What we heard and have come to understand about the need for a fundamental shift in the approach of system of care resonates with insights from other care systems and experts. For example, the recent report from the UK Department for Education Children's Social Care Innovation Programme that funded and reviewed learnings from 17 projects in the first wave of the programme produced the Report: *What have we learned about good social work systems and practice?* The overall purpose of the Innovation Programme was to "inspire whole system change."[108] It is important to acknowledge that this innovation work was undertaken in the context of a commitment to austerity by the central government resulting in an emphasis on cost saving as an underlying goal of innovation. Despite this focus (and, perhaps, particularly interesting in light of it) the innovation projects identified a common concern with the lack of focus on families and young people as a system driver.

The 17 projects were significantly different in context and approach, but common themes emerged across them in terms of the system issues to be addressed. Owing to the focus on current children services, there was a particular focus on social workers in the innovation work across the projects. Our work in the Inquiry envisions change much broader in scope across systems, professions, and disciplines. There is, however, significant overlap in what we came to understand through the Inquiry about what needs to happen regarding the system of care. Across the projects, there emerged a consensus about the issue that must be addressed in order to shift government systems of care, including "importance of leadership, organizational culture, inter-agency working, accountability, workforce stability and development." [109]

Through the Inquiry processes, we have come to appreciate the challenge of system change, particularly given the nature of the shift that is required to a human-centred system of care. This shift is about more than changing what the system does (in terms of programs and operations). It requires change rooted in a different way of thinking about *why* we do what we do, and *how* we do it, that will then result in changes to *what* we do. Change of this nature requires a holistic and integrated approach to consider the implications of this shift for the entire system of care (government and community based). It is not merely a change to government systems and the services they provide; it is a culture change with implications for the whole system of care that includes how families, communities, government and non-governmental organizations, and agencies think and act.

It is clear, however, that such a change will require particular attention and support for formal systems because they have a significant structural influence and impact on the conditions for relationships of care in communities and families. Also, it will take deliberate and sustained attention because changing formal systems is never easy or simple and is, perhaps, even more challenging when the shift is cultural as well as operational.

It will require a shift in ways of thinking and patterns of relationship at interpersonal, institutional and even societal levels. Shifting to be human-centered will require those within the system to change not just what they do but how they do things and to be committed to why this shift matters.

Participants in the Inquiry shared their knowledge and experience trying to bring about change of this nature. They were clear that it will require more than changing policies or programs or even structures to shift the system of care. It will require a shift in ways of thinking and patterns of relationships at interpersonal, institutional, and even societal levels. Shifting to be human-centred will require those within the system to change not just what they do, but also how they do things, and to be committed to *why* this shift matters. This will require attention to a range of factors that will be key to creating the conditions for and supporting such a shift.

Cameron Fincher argued the idea that simply removing barriers will allow innovation to flourish is mistaken because the impact of passive resistance and attachment to daily routines and ways of doing things is a powerful inhibitor of change.[110] It is therefore important to consider the reasons for such passive resistance and to support those within systems to make such a shift. Addressing this barrier requires development of a shared understanding and commitment to why the shift is needed — its purpose. Leaders of the change in children's services in Leeds emphasized with participants in the Restorative Inquiry the importance of developing a shared "why" or vision. This vision needs to be communicated clearly and consistently to support collective commitment and collaboration needed for change. John Braithwaite's experience of responsive regulation in the context of the aged-care system also made clear that the response to resistance (passive or otherwise) is not likely to be effective if it is met with a punitive response. While he acknowledges that deterrence is important, it does not work on its own. Threats, he finds, are an ineffective way to gain control. He makes the case for a mix of regulatory strategies and notes that much of the effective work is done in informal, relational ways before escalating to more formal responses. In particular, he notes the effective use of praise and positive feedback (support) in efforts to bring about change and improvement of care.

As discussed earlier in this chapter then, it is particularly important to consider how the system will respond to resistance or failure at the individual and collective level because of the impact it has on the culture of the system. Change is made more difficult by defensiveness because it makes it hard to take the risks required for learning and change.

The experience of the Inquiry itself has made clear that shifting to a different way of thinking and working requires sustained attention and time. It requires patience to lay the groundwork and build the capacity needed to support and sustain such a shift. The nature and scale of the shift envisioned is not likely to progress in a straightforward, linear way. It will be key for success to allow time to fail and learn and try again. It is important that making the shift be approached in a flexible and responsive way to allow for failures, and that it is supported by a learning culture in order to allow recovery and renewed efforts. This reflects the responsive approach to regulation the Inquiry has identified as essential for a human-centred system. As John Braithwaite explains, "responsive regulation helps us organise a mix of regulatory strategies to tackle the problem. Because most regulatory strategies fail most of the time, we must learn to fail fast, learn, and adjust to a different regulatory strategy."[111]

It will be key for success to allow time to fail and learn and try again. It is important that making the shift be approach in a flexible and responsive way to allow for failures and that it is supported by a learning culture in order to allow recovery and renewed efforts.

The UK Department for Education considered the conditions for change in children's social care. Based on the experience across its various innovation projects it identified four key enablers. The importance of these elements was also clearly identified across participants within the Inquiry.

- *Focus practice on strong relationships and shared decision-making*

  Balance safe placements with supportive and secure relationships: reducing placement moves, providing consistent key workers, and prioritizing the existing bonds in children's lives. Develop personalized interventions and solutions: finding new ways to listen to children and families, generating a shared understanding of need, and responding with flexible models of support.

- *Change culture to create an enabling environment for professionals*

  Build a supportive environment for professionals and practitioners: integrated, interdisciplinary and cross-agency teams; rethinking roles and career paths for social workers; and thinking differently about recruitment and retention. Adopt evidence-based practice across the whole workforce: better use of evidence and data, cultures of learning and new models of training.

- *Lead and govern in partnership with a shared, practical vision*

  Articulate a clear and shared vision, purpose, and set of values that are championed by leaders but owned by everyone, aligning values across organizations and bringing together teams from multiple agencies.

Translate this into governance, structures, partnerships, and ways of working, including multi-agency governance groups and distributing leadership.

- *Change whole systems to enable new approaches to embed and scale*

  Design new models of commissioning, funding, and delivery: build cross-agency partnerships to enable joint commissioning, create alternative funding and delivery vehicles and decommission what does not work. Balance fidelity and flexibility at scale: scaling models across multiple locations, implementing evidence-based programmes that have been developed elsewhere and helping others to learn from innovative practice.

These findings regarding key enablers of change resonate with the experience and learning within the Inquiry. In addition to these key enablers, we have identified other aspect that require attention in support of this system shift.

This shift will require leadership at all levels within an organization or system across Government and community. This leadership will have to be integrated and collaborative. This will require development and investment in mechanisms to support working in integrated and collaborative ways within and outside Government. Given the silos and fragmentation the shift seeks to overcome, intentional effort will be needed to establish mechanisms to support an integrated and holistic approach to this change. *This will require multi-agency involvement, an integrated plan, shared authority, and collective governance (across Government and community).* This will also offer learnings and build capacity for working in this way that will contribute to the overall success of the shift in the system of care. Working in a collaborative way with community will require Government to overcome the silos and fragmented structures to be able to collaborate well with community.

Working in a collaborative way with community will require government to overcome the silos and fragmented structures to be able to collaborate well with community.

It will be important to work toward this shift together with community in consistently collaborative ways that are not fragmented or intermittent. This too will require mechanisms to support Government/community collaboration. Such collaboration will require more than service provider arrangements and/or advisory panels. The shift to a human-centred approach will require a commitment to shared authority at the level of governance to support collective action. In addition to a mechanism for systems and Government generally with this change, integration at the level of policy and operations will also be required.

The Restorative Inquiry has modelled this idea of shared authority and governance through the Council of Parties. As explained in Chapter 2, the Council of Parties was designed to support shared authority and collective responsibility for action through its membership reflecting all of the central parties related to the Home and work ahead. Another helpful model of shared authority through a restorative approach in Nova Scotia is the Governance and Management Committee for the Nova Scotia Restorative Justice Program. This committee facilitates collaboration across justice system and community stakeholders in the governance, management, and operation of the program. It reflects a deep commitment to partnership between Government and community that is fundamental to a restorative approach.

Mechanisms alone, of course, will be insufficient to affect this shift. As we have discussed, transformation will be required in the way people and systems think and work. This culture change will need an enduring commitment. Long-term change work is difficult in the context of changing governments and priorities. To be successful, then, this shift needs to be rooted in a shared public commitment to the rights of children, young people, and families. It needs to be about more than a new initiative, direction, program, or policy. *It requires an entrenched entitlement for children, young people, and families to set the terms for what they can expect from the system of care.* Such a commitment is an essential element for a shift to a human-centred approach. For example, the legal entitlement to have family play a central role in decision making about care through family group conferences was the foundational lever for the shift in the system in New Zealand in 1989. It guaranteed the place of families in decision-making, such that the system had to shift to accommodate the commitment. The entitlement also ensured a rights-based approach that protected the commitment from being eroded when and if it no longer matched system priorities. The legislative protection also secured the commitment and time for culture to shift within the system of care. A legislative commitment can also play a helpful role in support of integration because it can solidify a commitment to young people and families across all aspects of the system of care. It could serve as a shared commitment to the rights and outcomes for young people and families for which all parts of the system are responsible. Legal entitlements can play a significant role in securing the conditions required for a shift. Such entitlements alone, however, are not sufficient to bring about a shift in the system of care. They can easily become hollow if adhered to in form, but not accompanied by a substantive change in approach.

This culture change will need an enduring commitment. Long term change work is difficult in the context of changing governments and priorities. To be successful this shift needs to be rooted in a shared public commitment to the rights of children, young people and families.

C. Shifting Understanding and Response — Systemic Racism

As our analysis of systemic racism in Part 1 of Chapter 5 made clear, addressing racism requires going beyond the individual to understand the role of systems and structures. Our examination of the Home revealed the need for a more nuanced understanding of racism and how it operates at institutional, systemic, and structural levels. The learning and understanding phase of the Inquiry considered the continuing role and significance of systemic racism in the system of care and responses to institutional failures of care, including abuse. Participants recognized that systemic racism marks the system of care. It has been replicated over generations despite system reforms and improvements.

In the initial phase of the Inquiry, participants shared the following issues and concerns:

What we heard in early phase of relationship building

Systemic racism continues to have a major impact on African Nova Scotian families and communities.	In information sessions around the province, participants identified institutional racism and discrimination as an ongoing concern. Issues of over-representation were expressed, and people in rural areas, in particular, spoke of being reluctant to interact with many public agencies and services because they felt they were treated as second-class citizens. Many people stressed that these issues are not new: "It feels like we're talking about the same things we were talking about 40 years ago," one participant noted, a sentiment echoed in several sessions around the province.
African Nova Scotian youth need strong role models, and to see their culture better reflected in their environments.	Former residents who share positive memories from their youth almost always identify at least one adult who provided them with guidance and/or treated them with kindness. Participants in the youth events and community information sessions also stressed that youth need more opportunities to take leadership roles in positive situations—too often, African Nova Scotian youth become the focus only in the context of "problems," while their successes go unrecognized.
African Nova Scotian communities desire a better partnership with government and public agencies.	In community information sessions and events, most participants expressed "cautious optimism" about the potential of the Restorative Inquiry. Many people spoke of a desire to see change, but admitted they were wary after past experiences where Government departments invited input or promised consultations yet did not take up community feedback in their final reports/recommendations. Former residents, community service providers, and other participants all said that they wanted to feel included throughout the process, and they want to see commitment to true partnership and accountability from Government departments and other public agencies that may be involved in the process.
Government and public agencies also desire a better working relationship with community.	In presentations and information sessions with public partners, many participants acknowledge that they are not serving African Nova Scotian communities as well as they would like. They are open to feedback on how to improve access and service, and they are hopeful that the Restorative Inquiry model will open doors for more collaboration and meaningful change.

Systemic racism is not, then, just the story of our past or of the experience of former residents alone. It is an ongoing story with profound impacts on the lives of African Nova Scotia young people, their families, and communities. African Nova Scotian children are today much more likely than children in the general population to be removed from their families and placed in the care of the system. According to statistics provided by the Nova Scotia Department of Community Services during community presentations in June 2016 regarding the proposed changes to the *Children, Youth and Family Services Act*, African Nova Scotian children were approximately 4.4 times more likely to be removed. Information provided by the Department during the Inquiry's learning and understanding phase of work indicated that, in 2017, 24 per cent of the children in care were Black while they make up only 2.4 per cent of the population. During the Inquiry, the Department acknowledged current weaknesses in their data with respect to African Nova Scotians involvement with child protection.

Participants throughout the Inquiry concluded the story of systemic racism must be told and its lessons known because it is important and urgent that we change the narrative and write a different story for the future. The persistence of systemic racism reflects the failure to reveal systemic racism in the system of care and to subject it to the intentional and sustained attention required to systematically undo it.

As Chapter 5 discussed in detail, racism cannot be fully explained or addressed at the individual level. It is not merely a matter of individual behaviour that can be fixed by the right measure of blame or censure. Yet this has characterized much of the attention and response to racism. As discussed in Chapter 5, Kwame McKenzie's discussion of the response to the UK's Stephen Lawrence Inquiry, and the efforts to address systemic racism that followed, reveal the significant challenge of moving beyond this individual frame to acknowledge and address racism at a systemic level. As McKenzie describes, despite clear acknowledgement in the UK response that institutional racism is a *collective* problem, individuals within the various departments, agencies, and services involved felt that they were being accused of being racists. As discussed in this Report, such a defensive response is, in part, a reflection of the individualized, adversarial, and punitive character of our current system-centred approach. The response also reveals the failure to comprehend racism at a systemic level.

Dealing with systemic racism requires using this lens to examine the world and individuals' experience of it. For this reason, the Inquiry deliberately brought the lens of systemic racism into consideration of the central issues on response to abuse and the care system. This is in keeping with the mandate of the Inquiry to consider the Home as an example of systemic racism. As we examine the history and experience of the Home, racism was embedded and foundational. One of the significant lessons from the Home is that racism cannot be understood or addressed apart from its systemic and structural expressions. The Inquiry worked from this insight to examine how racism is reinforced and replicated through the system of care and our efforts to address its failures. This work of the Inquiry and the understanding that resulted has clear implications for recognizing and addressing racism as it operates in other institutions, systems, and social structures in Nova Scotia.

Appreciation of the systemic nature of racism reinforces the importance of a human-centred approach. Addressing systemic racism requires an integrated approach precisely because one cannot separate out consideration of race from the ways it shows up within institutions, systems, and structures. In short, systemic racism requires a systemic response. Individualistic responses (discussed in Part 3 of Chapter 5 and earlier in this Chapter) focus on identifying individual actors or actions often to ascribe blame and apportion punishment through adversarial processes. This often masks or detracts from appreciation of systemic issues and collective responsibility. It risks missing the racism, blinded by its singular focus on racist individuals or acts. As noted in Chapter 5, Senator Sinclair's description of systemic racism is a poignant reminder of the inadequacy of the individualism of our current system-centred approach. Systemic racism is, he said, the racism that is left when we get rid of all the racists. While it is clear we are not rid of individual racism, it cannot be the sole focus or the conditions for such racism will continue to prevail.

By contrast to this individualistic approach, a human-centred approach is relational and requires attention to the contexts, causes, and circumstances. This attention reveals the complexity and character of the relationships and interconnections that are essential to understanding and addressing systemic racism. The human-centred approach is also characterized by a forward focus on responsibility rather than a backward-focused blaming response to harm and failures. This is important in the context of addressing systemic racism because a focus on blame for the past feeds an individualistic understanding of racism. In the process, it tends to over-simplify the issues and focuses the response on making up for the past, rather than addressing the need for complex systemic, structural, and cultural change.

The Home is an example of how systemic racism requires a broad lens on the issues in order to see their complexity and interrelatedness. This holistic picture is obscured or lost when fragmented by the siloed structures of departments, jurisdictions, or issues. The Restorative Inquiry has worked with partners to examine issues through a relational lens in order to develop a holistic understanding. This understanding was essential to the work of planning and action. As explained in Chapter 5, systemic racism cannot be fully grasped or addressed simply by responding to "isolated incidents" or attending to the individual ways racism shows itself within particular systems or on particular issues. Systemic racism is greater than the sum of its various expressions. As we have come to understand through the Inquiry, the siloed structure of Government plays a key role in maintaining and perpetuating systemic racism by rendering it, by times, invisible, or revealing it only partially. One of the enduring consequences of working in fragmented ways is that the structures of institutions and systems replicate the conditions in which systemic racism operates and thrives, while at the same time making it difficult to recognize and, thus, to challenge and address.

In these ways, then, the system-centred individualistic, blame oriented, siloed and fragmented approach is ill-suited to address systemic racism. Indeed, as we have come to see through the Inquiry, it hides the systemic nature of racism from view, enabling it to continue to operate and

replicate. A focus on racism through the experience of the human beings affected brings its systemic nature to the fore as it did through our examination of the Home.

It is essential, if we are to deal with systemic racism, that it be brought to light. It thrives unseen — operating in unconscious ways. We are becoming increasingly aware of the insidious character of unconscious bias as our blame-based notions of justice struggle to respond to what is done without malice or intent. It is clear that systemic racism requires a different response. A response that raises our consciousness and, with it, the recognition of responsibility to mine the breadth and depth of impact and to response to what is found. The Coalition for Racial Equality and Rights in Scotland has argued that, in fact, we should not refer to this bias as unconscious because,

> [t]hat description could arguably imply that it's something buried so deeply, people cannot be aware of it – which is inaccurate. In fact, developing an awareness of our underlying attitudes is vital to a genuinely anti-racist approach. A term which acknowledges this more is 'implicit' bias.[112]

Addressing systemic racism, then, requires an approach that will make it explicit. This has been central to the approach of the Inquiry. The Inquiry supported the work of learning and understanding required, first to see the Home as a complex story of systemic racism and, then, to reveal how this story continues with relevance for today. But addressing systemic racism requires an approach that is able to keep making it explicit. Systemic racism cannot be revealed or addressed through a one-off process. We have been explicit in the Inquiry that we seek to model a different way forward. One of the goals of the Inquiry was to establish the relationships, learning, and understanding among parties to create agenda and momentum for further learning and action on related issues of systemic racism that are revealed through the process. The Inquiry has sought to equip parties with knowledge and experience about how to carry forward the mandate and goals of the Inquiry including to:

Build Just & Respectful Relationships
Foster relationships of mutual respect, care, acceptance, and dignity within and among communities, systems, structures, and institutions. Support collective ownership, shared responsibility, and collaborative decision-making.

Develop Plans & Take Action
Towards a better future for African Nova Scotian children, families, and communities and all Nova Scotians.

Establish Shared Understanding & Seek Just Social Change
To ensure that such harms never happen again by seeking an end to systemic and institutionalized racism.

One of the motivating factors to take a restorative approach to this Inquiry was a recognition that we lack processes to support the individual and collective responsibility needed to change institutions and systems. There are few pathways to respond and seek change outside of the framework of the current system-centred approach characterized by adversarial, blame-focused processes. The restorative approach of this Inquiry was designed to establish the conditions in which individuals could come to examine and understand the complexity of systemic and institutional racism and to recognize individual and collective responsibility for systemic and institutional change. The Inquiry has shown the importance of investing in processes by which individuals can make systemic and institutional racism explicit and come to understand what is required to address and change it. It has also demonstrated the significance of taking a learning approach to this work. Dismantling systemic racism requires collaboration in support of shared understanding, responsibility, and collective action. This requires an approach that calls people in to inclusive and participatory processes. It cannot be achieved through a "call-out" culture based on naming, shaming, and blaming. We need some way for those who clearly play a role in the problem of white privilege and structural inequality to see and take up their responsibility to be actively engaged in finding solutions. The Inquiry has modelled this way forward. It will be important to ensure continued opportunity to work in this way to address systemic racism.

It is also essential to deal with the systemic nature of racism to recognize the significance and impact of internalized racism. The importance of understanding and responding to this aspect of racism was made clear through the history and experience of the Home. As noted in Chapter 5, the failure to appreciate this aspect of systemic racism caused some to even question or express confusion about how the experience of former residents within the Home reflected systemic racism, given that the staff and management of the Home were also African Nova Scotian. The question revealed the failure to appreciate the systemic nature of racism and the ways in which it works to structure relations and interactions at all levels, including internally for those subjected to it.

As Suzette Speight explains,

> Looking to the larger society to construct a sense of self, members of the target group find negative images that serve to colonize and recolonize them. Through its internalization, oppression becomes self-sustaining or domesticating (Freire, 1999). The target group members believe the dominant group's version of reality, in turn, ceasing to independently define themselves (Bulhan, 1985). Watts-Jones (2002) explained that "when people of African descent internalize racism it is an experience of self-degradation, and self alienation; one that promotes the assumptive base of our inferiority" (p. 592). From this position of alienation, target members tragically often end up colluding with their own oppression. Targets "think, feel, and act in ways that demonstrate the devaluation of their group and of themselves as members of that group" (Hardiman & Jackson, 1997, p. 21)."[113]

Donna Bivens' work in internalized racism has been very helpful. It reflects clearly what we have learned through the work of the Inquiry, particularly in efforts to understand the response to the Home within the African Nova Scotian community. Fully appreciating the impact of systemic racism within the African Nova Scotian community requires an understanding of internalization. In her piece "What is Internalized Racism?" she argues that to understand and address internalized racism, we must be aware of three major things:

1. As people of color are victimized by racism, we internalize it. That is, we develop ideas, beliefs, actions and behaviors that support or collude with racism. This internalized racism has its own systemic reality and its own negative consequences in the lives and communities of people of color. More than just a consequence of racism, then, internalized racism is a systemic oppression in reaction to racism that has a life of its own. In other words, just as there is a system in place that reinforces the power and expands the privilege of white people, there is a system in place that actively discourages and undermines the power of people and communities of color and mires us in our own oppression.

   Individuals, institutions, and communities of color are often unconsciously and habitually rewarded for supporting white privilege and power and punished and excluded when we do not. This system of oppression often coerces us to let go of or compromise our own better judgment, thus diminishing everyone as the diversity of human experience and wisdom is excluded. Equally harmfully, the system can trap people and communities of color in an oppositional stance that can undermine creativity as situations are seen through a limited victim/perpetrator lens that cuts us off from the breadth of possibility.

2. Because internalized racism is a systemic oppression, it must be distinguished from human wounds like self-hatred or "low self esteem," to which all people are vulnerable. It is important to understand it as systemic because that makes it clear that it is not a problem simply of individuals. It is structural. Just as racism results in the system of structural advantage called white privilege for white people and their communities, internalized racism results in the system of structural disadvantage called internalized racism for peoples and communities of color. Thus, even people of color who have "high self-esteem" must wrestle with the internalized racism that infects us, our loved ones, our institutions and our communities. Internalized racism must, then, be understood as a system to be grappled with by people and communities of color in the same way that even the most committed anti-racist white people must continue to grapple personally and in community with their own and other white people's privilege until our existing racist system is abolished and replaced.

3. Internalized racism negatively impacts people of color intra-culturally and cross-culturally. Because race is a social and political construct that comes out of particular histories of domination and exploitation between Peoples, people of colors' internalized racism often leads to great conflict among and between them as other concepts of power—such as

> ethnicity, culture, nationality and class—are collapsed in misunderstanding. Especially when race is confused with nationality and ethnicity, internalized racism often manifests in different cultural and ethnic groups being pitted against each other for the scarce resources that racism leaves for people who do not have white privilege. This can create a hierarchy based on closeness to the white norm. At the same time it cripples all of us in our attempt to create a society that works for all of us.[114]

Great care must be taken to ensure that internalized racism is not misunderstood in ways that are used to victim blame. Internalized racism does not take away from the root of systemic racism in white supremacy that has hardwired white privilege as the norm and that shapes ways of understanding and organizing the world. It does though, have implications for the way we address systemic racism.

Addressing internalized racism requires a recognition that it is an expression of systemic racism and must be tackled at its root. Systemic racism is maintained and perpetuated by power. As Bivens explains, systemic racism involves:

> an unequal distribution of systemic power for people with white-skin privilege in four main areas:
>
> 1. the power to make and enforce decisions;
> 2. access to resources, broadly defined;
> 3. the ability to set and determine standards for what is considered appropriate behavior; and
> 4. the ability to define reality.[115]

Addressing systemic racism then requires acting to disrupt the power in these areas that maintain it. It will be essential that the shift we seek to human-centred care, and the response when care fails, must be attentive to these areas.

As we have discussed, power over decision making is key. If we are to disrupt systemic racism, we must ensure that families and communities are empowered to lead decision making and, in the process, set and determine standards for what is appropriate for their family and in their community and culture. Family-led decision-making must support them to define reality through their plans and be supported with resources to ensure their decision-making authority is meaningful. Yet the reality of internalized racism requires attention to the conditions that will make this decision-making possible in a way that will make a genuine shift and a significant difference to systemic racism.

It is clear that ensuring the shift will require changes in the systems, institutions, and structures. Understanding systemic racism and its internalization, though, demands particular attention to

how this change is pursued. The approach to systemic change — how it is pursued — must be reflective of the shift we seek. As we have come to understand through the Inquiry, this has several significant implications for the way we move forward in addressing systemic racism and securing this shift. These insights have been identified through the learning and understanding phase of the Inquiry:

- Making such a change requires disrupting the current distribution of systemic power. Deliberate efforts must be made to share power with those in the African Nova Scotian community at the levels of decision-making, implementation, and assessment.

- Shared responsibility and collective action is required to make this shift.
  - Current efforts to address the existence and impact of systemic racism have focused primarily on diversifying the public service. As we discuss below, this is an important aspect of supporting change that needs to be carefully pursued. However, it cannot be seen as the solution that absolves others (particularly those in the white majority) of their responsibility to be actively engaged in the work of addressing systemic racism. This shift is a shared responsibility and requires collective action. It also requires careful consideration of the appropriate role and responsibilities for those in the majority. There is significant work that needs to be done within the dominant society and within the systems in which they are privileged. That work cannot fall to members of the African Nova Scotian community to carry. Bivens make this point as she argues,

    > Much of the time that people of color spend helping white people understand racism could and should go into helping people of color get clearer about internalized racism – especially as the debates on race and racism become more confusing, complex and obscured. As more white people become clearer about white identity and how to "do the work"[of making systemic racism and its basis in white privilege explicit] with white people, people of color are freed up to look beyond our physical and psychological trauma from racism to other questions about our ability to create what we want for ourselves and our peoples.[116]

    This will require clear expectations and communication of the commitment to this work, including the dedication of the time and attention required to do it. Care must be taken to build the capacity and opportunities needed to support learning and understanding within systems and institutions as the basis for collective action to address systemic racism in all the ways it operates.

- It is also essential that systems and institutions continue their commitment and efforts to be inclusive in order to ensure shared power within systems. This is key for change because it will bring into the system the knowledge and perspectives needed for the ongoing work of revealing and addressing systemic racism. However, this needs to be done in a way that is sensitive to the real dangers and impacts of internalized racism.

  Of course, this will require bringing African Nova Scotian people into the system in greater numbers. However, representation alone will not make the difference to the system. People must come into the system in roles that have the power and authority to make a difference. They must be capable and supported to bringing community views and perspectives into the system in meaningful ways that can unearth and challenge systemic racism and secure change. The siloed and fragmented nature of our current system-centred approach can be a significant barrier to this.

  Creating the conditions to deal with systemic racism will require a shift to human-centred systems that are integrated and holistic in their structure and approach. This integrated approach resists more simplistic ways of addressing systemic and institutionalized racism through increased representation among staff and professionals within the system of care. Increased representation is not unimportant, however, our work in the Inquiry revealed deeper attention is required to how the systemic and structural dimensions of racism are operating if such representation is to have its full effect. In other words, the human experience of racism and its roots in the system have to be revealed and made to matter or else inclusion of diverse knowledge and experience can make no difference. This was one of the significant insights from the history of the Home — increasing the representation of African Nova Scotian people on the Board did not fix or change the culture through which systemic racism continued to operate and impact the care experience of children.

  Through the Inquiry, we also learned the toll it takes on those who are racialized and working within the system of care. They feel responsible, and are often expected to carry the burden of improving the system and leading others in the work to address systemic racism. At the same time, as they work within the care system, they are confronted with the failures of care and called upon by young people, families, and the community with expectations that they can make it better.

  The Coalition for Racial Equality and Rights in Scotland similarly recognized this concern and identified that "mismatched relationships between senior and operational staff often hamper equality work." On their account, "[s]enior figures may enthusiastically demonstrate leadership on equality, for example, but lack the expertise needed to put their ethos into action. At the same time, there may be people

further down the chain of command who specialise in equality but don't have the authority to drive improvement." This was in keeping with what parties identified within the Inquiry. The Scottish Coalition description aptly captures the experiences and reflections shared during the Inquiry:

> Because of this mismatch [between senior and operational staff], equality initiatives driven from below often aren't understood by management, whilst management may propose activities which sound good in theory but are impractical or ineffective in practice. Personnel changes worsen this; if there isn't a shared understanding of what works or is desirable, it's very difficult to pick up the thread once the person driving change is gone. The end result is that organisations often invest significant time and energy planning equality work only to eventually water down or abandon those plans.
>
> These failures are symptomatic of the power hierarchies which underpin racial inequality and block progress. Those with influence and responsibility need to empower equality specialists to fulfil their potential. This is especially important when their work aims to challenge persistent inequalities, which can be a hard sell in environments that favour the status quo. The solution is for staff and management within institutions to take collective responsibility for creating change, and to work towards this through evidence based positive action measures.

There was agreement and common commitment across parties within the Inquiry about the importance of this approach for the way forward. Indeed, during the Inquiry, the Department of Community Services recognized this issue as it sought to be fully prepared to engage with the planning and action within the Inquiry. They established a new senior role to bring expertise in line with the authority required to drive change. Yet a lasting shift will require much more of this kind of action and with further-reaching effects on the structure of power and privilege within systems. The system-centred approach, as we have discussed at length in this Chapter, makes it difficult, if not impossible, for one person to make the difference needed for young people and families. While we learned of the incredible efforts made by individuals within systems to do the right thing by young people, families, and communities, the cost it exacted to make small differences one case at a time was evident. The differences they have made are not insignificant, certainly not for the young people and families involved. These efforts are also significant for the disruptions they cause within systems and the model they lift up of doing the right thing.

Through the Inquiry process, we have come to learn from these efforts and see the real possibility of a shift in the system of care. But such efforts alone are insufficient and unsustainable. The shift we seek cannot and will not be achieved in this piecemeal individual way.

- Part of what will increase representation within systems to support broad-based change is to ensure the mechanisms by which representation can be meaningful and effective. Change will not be piecemeal if it is rooted in communities that can exercise systemic power. Community empowerment will require investment and support on two fronts:

  1) Communities need resources and support to undertake the work needed to tackle internalized racism.

  2) Communities need to be empowered to have a real say in the way systems work and be genuine partners in ways that can change the power and privilege that fuels current systems.

  Through the Inquiry, we have come to see the importance of the shift to human-centred systems and the restorative approach that it entails as essential to both there aspects of community empowerment.

  1) The siloed and fragmented nature of systems has contributed to disconnects within the African Nova Scotian community/community structures and in the relationship between community and Government. These disconnects allow systemic racism to permeate these relationships in ways that go undetected or acknowledged. The Inquiry heard from community organizations and members about the impact of fragmentation and divisions within and across communities on the ability to support care and respond to abuse. The divisions and fragmentation within community have been shaped and influenced by the context and environment of systemic racism in Nova Scotia. We have heard that this context of racism heightened the perception and reality of risk to community in the face of blame for harms and failures, including abuse. This shaped the community's reaction to abuse claims related to the Home and resulted in their responses that sought to protect and defend community against risk and liability. This reaction, in the case of the Home, silenced and isolated those affected, increased their vulnerability, and amplified the impacts of systemic racism. It is essential then, as we have learned through the experience of the Inquiry, that the African Nova Scotian community be supported to develop more spaces, places, and opportunities for community to come together to do the work required within community to understand and contend with the impacts of systemic racism. This message came loud and clear as community gathered together within the Inquiry. "We need more opportunities to talk like this — to talk with one another and our leaders

in this way." Community members recognized the truth of what Bivens identified, that they needed to dedicate time and to find support to deal with systemic racism as it has impacted their understandings and their relationships within community.

2) Empowerment of community is also required to shift the nature of engagement with governing systems, institutions, and structures. Parties within the Inquiry recognized this will require a fundamental shift in the terms of engagement if it is to make a difference. This shift will require a move from "consultation" to more genuine engagement that is reflective of shared authority — of partnership. Attention to the structural terms and conditions for engagement is particularly important given the impact of internalized racism. It will be essential, then, to ensure that engagement is not merely another mechanism to bring the community into service of the system. Rather, communities must have the resources and supports to do the internal work identified above if they are to be able to engage as full and equal partners.

Through the Inquiry, we heard what is required for effective engagement with community. The Inquiry itself was designed and implemented to model such engagement through its restorative approach that was inclusive, participatory, collaborative, and action oriented. The experience of the Inquiry offered its own lessons on this front. These reflect the advice from the Scottish Coalition for Racial Equality and Rights regarding effective community engagement which concluded:

> Effective engagement also requires community empowerment. Communities need to have enough information to work with, a safe and welcoming space and confidence that their input will make a difference.
>
> …
>
> The tendency for policy makers to listen to the loudest voices or rely on the 'usual suspects' becomes even more of a problem when internalized racism is at play…
>
> Engagement processes also need to recognise that minority ethnic communities are not homogenous groups; there are imbalances of power both within and between communities. Choosing not to explore differences and conflicts within the engagement setting is both patronising and counter-productive.
>
> Engagement with minority ethnic communities must have visible results, be inclusive of all communities and be undertaken from a position of mutual trust and respect. True involvement, however, also requires a degree of power sharing. To achieve this, it may be necessary to address issues around direct racism, hidden bias and institutional discrimination. Many institutions will

> have to address issues with their own policy making hierarchy and power dynamics. This requires a degree of honesty and humility which policy makers may find challenging, but ultimately rewarding.[117]

Through the Inquiry, we have come to understand the significance of centring first voice in order to reveal and grasp impacts of systemic racism. Engagement with community is essential to this work. Yet experiences cannot be taken in isolation, because that risks individualizing racism and reducing it to specific acts or actions. Attention to the full human experience and impact of racism at individual and collective levels reveals its holistic and integrated nature. It reveals enduring patterns of experience and outcomes that point to the systemic nature of racism. The Inquiry process has shown the potential of a restorative approach to addressing systemic racism. It supports an understanding of the relational complexity of systemic racism and offers processes through which parties can come to this shared understanding and establish a basis for collective action. The restorative approach of the Inquiry, from its design through to its conclusion, has reflected the Africentric principle of Ujima — the commitment to collective work and responsibility that is required to bring the fundamental change in thinking and operations of systems, institutions, organizations, and the patterns of our relationships needed to address systemic racism in Nova Scotia.

Conclusion

The shift from system-centred to human-centred, from silos and fragmentation to holistic and integrated, from blame to responsibility, is fundamentally a shift to justice in our relations — with one another, in our systems and institutions, and in community and society. As this chapter has detailed, this shift will require more than a change in what we do, it will require a change in how we do things that is grounded in this commitment to just relations that places human beings at the centre and fosters the relationships we need to be well and succeed.

The third phase of the Inquiry focused on planning and action to ensure what we have learned and come to understand will make a difference for the future. Our progress through this stage — the commitments, plans, and actions that have emerged and will be carried through as the mandate of the Restorative Inquiry — is carried on by the parties and partners as described in Chapter 7. It is important to read these actions, plans, and commitments in the context of the shift they are trying to achieve. At its core, the commitment of the Restorative Inquiry was to find and model a different way forward — this shift to a human-centred approach is that different way we sought through the work we have done and will continue to do together during the way ahead describe in the next chapter.

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CHAPTER SEVEN

Making a Difference: Actions, Plans, Commitments & Recommendations

Ultimately a genuine leader is not a searcher of consensus but a molder of consensus. On some positions cowardice asks the question, is it safe? Expediency asks the question, is it politic? Vanity asks the question, is it popular? But conscience asks the question, is it right? And there comes a time when one must take a position that is neither safe, nor politic, nor popular but he must take it because conscience tells him it is right.

– Martin Luther King Jr. *"A PROPER SENSE OF PRIORITIES" February 6, 1968, Washington, D.C.*

Introduction

The Restorative Inquiry has come to an end but the work it was mandated to address and contribute to continues. The Inquiry has facilitated parties to come together to build relationships, learn and understand, and plan and take action related to this mandate. The Inquiry has carried the responsibility to build capacity and serve as a catalyst to make a difference on the issues related to the mandate: responding to institutional abuse (failures of care), the experience of the system of care, and systemic racism. This Chapter shares the elements of the journey forward aimed at making this difference that have emerged from this process. It shares actions taken, progress made, planning underway, commitments made, and recommendations for further steps. This Chapter is intended to transition the mandate — the collective and shared responsibility to lead this work — from the Restorative Inquiry to the parties and partners that have been involved in this process.

The Inquiry process has not been focused on getting agreement or consensus on what to do. It has, however, been committed to building shared understanding about *why* things need to change and how we need to work together for change.

The Restorative Inquiry process created space for those within the Government and community to begin the work to shift to a human-centred approach and to envision and plan elements of the journey ahead. This has allowed consideration of what is *right* — and how to go about doing what is right. It has not been simply focused, as discussed in Chapter 6, on doing things within current systems in right or better ways, but, first, on doing the right things.

It is important to be clear that the Inquiry's commitment to building relationships, collaborative learning and understanding, and collective action has not been limited to what parties can agree upon. The Inquiry process has not been focused on getting agreement or consensus on what to do. It has, however, been committed to building shared understanding about *why* things need to change and how we need to work together for change. It is this understanding that underpins the various elements of the way forward described in this Chapter.

The restorative approach of the Inquiry has resulted in significant progress in building the relationships needed to make a difference for the future. It has also revealed where continued work is required to build and deepen a shared vision and understanding to make the necessary shifts identified through the Restorative Inquiry (as described in detail in Chapter 6).

Reading this Chapter

Chapters 1 and 2 describe the Restorative Inquiry and the different way forward it has taken. One of the significant differences has been the founding commitment to seek and support change in real time through collaboration among those most involved. Public inquiries typically investigate to determine what happened, conduct research, and seek out other expertise as needed, in order to determine what, in the view of the commissioner(s), ought to happen. Commissioners then issue a report detailing their findings and recommendations for what needs to happen. Those involved, responsible, or otherwise connected to the issues of concern must generally await the report and recommendations of the Inquiry to determine whether or how to respond. Engagement and response are sometimes made more difficult, or less likely, because of the lack of involvement of those most central to securing the outcomes in determining what action is needed.

As described throughout this Report, this Inquiry was different in both design and implementation, which has resulted in a different outcome. It is likely that readers will flip through this Report to this chapter seeking out a list of recommendations as is common with other public inquiries. Many will be looking for an itemized list — complete with details about whom the recommendations are aimed at and the actions, timelines, costs, and outcomes expected. Others will look to these recommendations, and the reaction of those identified with responsibilities within them, as a way to measure acceptance of responsibility, and/or sincerity, or level of commitment of those parties. So common is this structure of inquiries that those responsible sometimes prepare their responses in advance of reading the report (and without having time to really assess the recommendations in terms of likely value or impact). From governments and other public institutions, to corporations and individuals, the standard or acceptable response to inquiry reports has become acceptance of the report with thanks. Generally, although not always, this includes acceptance of the recommendations, or (less often lately) a commitment to study and respond to the recommendations, or to determine how to proceed with respect to such recommendations. Regardless of the precise response, the process following acceptance of the report typically involves those with responsibilities (and those with a stake in the recommendations) working to process the report — its findings and recommendations — to try and figure out the expectations and instructions. Results vary from this process, but there is significant evidence that such reports and their recommendations often

have less impact than intended or hoped. This sometimes results from a lack of will, but, often, is a consequence of the realities of governance and change processes.

Part of the impetus to take a different approach to this Restorative Inquiry was to support better outcomes and impacts from the process. The former residents wanted what happened to them to matter — to make a difference. The Restorative Inquiry was designed for this purpose. As described in Chapter 2, the process engaged parties with one another throughout. The role of the Commissioners on the Council of Parties was thus different than in other inquiries. They were not tasked with determining the facts and then deciding what should happen on their own. Rather, members of the Council of Parties were responsible to facilitate a process that would build the relationships needed to come to learn and understand what happened, figure out what to do about it, and bring about the changes needed. This approach has made a difference to the process and its outcomes. This Chapter reflects this difference and should be read accordingly.

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This Chapter describes some of the ways forward that have emerged out of the Restorative Inquiry. In this respect, it serves the function of recommendations in traditional inquiries, as it is intended to help make a difference, to provide guidance and spur action on the important issues at stake. It is also meant to be clear and transparent about responsibilities that need to be fulfilled and to provide some measure by which the commitment, progress, and impact of the parties involved can be assessed. However, while this Chapter is similar in these ambitions, it is different in its form and substance from a traditional approach. It is different in a number of ways that are important to understand before reading the various elements of the way forward described in this Chapter.

- ***These plans and recommendations do not come only from the Council of Parties.*** The elements described in this Chapter were not determined by the Council of Parties alone. The Commissioners who comprised the Council of Parties led the Inquiry. They approached their leadership role and exercised their authority restoratively. This meant working collaboratively within the Council of Parties which (as detailed in Chapter 2) is made up of representatives from many of the parties most central to the mandate of the Inquiry. This approach was also reflected in the way the Council discharged its responsibilities and

The Council of Parties played a significant role throughout the learning and understanding phase of the process, gathering insights and understanding, sharing it among relevant parties, and facilitating processes to consider the implications for the future.

used its authority under the *Public Inquiries Act*. The Council of Parties took a facilitative approach to its leadership of the Inquiry. This required careful and constant deliberation to inform decision-making regarding the direction, progress, and focus of processes to meet the mandate. A fuller description of the work of the Inquiry is offered in Chapter 2; for now, it is important to understand how this approach informed the planning and action work of the Inquiry as reflected in this Chapter.

The Council of Parties played a significant role throughout the learning and understanding phase of the process, gathering insights and understanding, sharing it among relevant parties, and facilitating processes to consider the implications for the future. The Council actively engaged with participants to support identification of possible responses or actions needed to address issues and support the necessary shifts (see Chapter 6) to make a difference in the central issues. As described below, this work has enabled some immediate action and changes, supported parties to undertake planning to implement changes, convened groups able and committed to take on planning and action in an identified area, and facilitated discussion and consideration of other recommended steps.

The elements of the way forward described in this Chapter reflect this collaborative work. The determination of the shifts needed and the ideas and actions for change taken, underway, or proposed, have come out of the collaborative processes of the Inquiry. They reflect the considerable knowledge, insight, and commitment of participants. This Chapter reflects the collective work of those parties who participated in the Inquiry and their shared responsibility for the progress and success of these actions, plans, and commitments in future.

- ***The ways forward are not intended as isolated actions — this is not a "checklist" of what to do.*** It would be a mistake to read this Chapter as a checklist, or directions, for what to do. Instead, a better analogy might be to consider it a road map, providing information, guidance, and support for the journey ahead. This map reflects the terrain and possible routes; it highlights some pathways but is most focused on where we are going and how we will travel there, because that is what is essential for a successful journey.

A full appreciation of the actions, plans, commitments, and recommendations that follow, then, requires an understanding of why we are travelling (making this move or shift) and how we will get there. Chapter 6 is intended to provide the information required to understand and navigate the way ahead as suggested in this Chapter. Chapter 6 provides information about what was heard through the Inquiry and what was learned from international research to help explain why these actions, plans, commitments, and recommendations are important. In short, they are important to the shift required to a human-centred approach that we have determined as essential to make a difference on the central issues of concern: systemic racism, the experience of the care system, and responding to institutional abuse and other failures of care. The elements of the way forward identified here reflect what we have come to learn and understand about making such a shift in Nova Scotia. It is clear this shift requires a change in *how* we do things, not just in the things we do. The actions, plans, commitments, and recommendations described here are rooted in a commitment to a different way of doing things — to supporting a fundamental shift in ways of thinking and working at systemic and structural levels. The elements detailed below should be read in light of this commitment to this different way. It is a way guided by relational principles and a restorative approach.

It is clear this shift requires a change in how we do things, not just in the things we do.

In many ways, attention to this different way of doing things, as the basis from which to determine what should be done, was modelled by the experience of the Restorative Inquiry. The Inquiry was more than just a different approach to processes or activities from traditional inquiries. The impact of the Restorative Inquiry was not simply in what it did, but in *why* and *how* it worked. This different way of thinking and working animates the elements of the journey forward we describe here.

The Restorative Inquiry provided an opportunity to test and experience this different way of working. In doing so, it also built and strengthened the understanding and relationships essential to the capacity to work in this different way in the future. Parties within the process not only learned what needs to be done, but also gained insight about how these things should be done. The Restorative Inquiry modelled working in a principle-based way and exemplified the shift to a human-centred, restorative approach. The Inquiry has been grounded in and guided by relational/restorative principles. They are:

Restorative Principles:

- **Relationally focused**

Understanding and seeking to structure/support just relations

- **Comprehensive/holistic/ integrative**

Connecting dots between issues, incidents, contexts, causes, & circumstances

Working in integrated ways, not siloed or fragmented

- **Inclusive/Participatory**

Empowering first voice

Trauma-informed

Culturally aware

Needs-based

- **Responsive**

Contextual, flexible practice

Informed by data/knowledge

- **Focused on individual and collective responsibility**
- **Collaborative/non-adversarial**
- **Forward-focused**

Educative, problem solving/preventative & proactive

These principles underpin the restorative approach of the Inquiry and inform the elements of the journey described in the rest of this Chapter. They help guide how we can fulfil the commitment to relational ways of working key to a human-centred approach.

As the experience of the Restorative Inquiry demonstrates, a restorative approach is not a fixed model or process. The Restorative Inquiry modelled the shift and a way of working but did not seek to be "the" model of a restorative inquiry. There are, thus, lessons to learn from how the Inquiry worked about working differently in future. Perhaps most importantly, the Inquiry demonstrated that a restorative process must be principle-based and flexible in order to be responsive to the situation, the issues, the parties, and the work required. Given its mandate to deal with the harms and impacts of the Home, the Restorative Inquiry may offer a more specific model of how to respond when things have

gone wrong – to institutional abuse and failures of care. However, it also holds significant lessons for how to approach the system of care more broadly. It is a principle-based approach that can inform policy, process, and practice. The work involved in the planning and action phase of the Inquiry revealed implications of this approach for the way forward. It demonstrated that the shift desired will not be achieved simply by adopting a ready-made process. The actions, plans, commitments, and recommendations here should be read in light of the aim for more fundamental change, not simply as a call to adopt new programs or process models.

• ***Planning and action are already underway.*** Traditional inquiry processes generally assumed action will happened after the Inquiry report is released. They assume the parties are waiting for the recommendations to tell them how to move ahead. The parties in the Restorative Inquiry process were committed from the outset to change in real time. As discussed, such change has happened during the process through the building and shifting of relationships, perspectives, and understanding. The experience of working together in a different way has also been an instructive model and experience of how to work restoratively in ways relevant to ongoing work on the Inquiry's central issues. It is important to recognize as action in real time the work parties and partners have done to build relationships that will support working differently in the future (including with respect to fulfilling some of the plans and commitments emerging from the Inquiry). It was not always easy work, as it involved a significant learning curve and some risk for those involved to trust in a process, and one another, in unfamiliar ways.

The parties in the Restorative Inquiry process were committed from the outset to change in real time.

This different way of working together has also led to changes implemented in real time during the mandate of the Inquiry. Parties have not had to wait on findings and related recommendations coming from the Restorative Inquiry in the form of this report to begin to make a difference. The process was designed to ensure learning and understanding was shared throughout the process and among the parties with interests and responsibilities to ensure that it could be mobilized in real time to make a difference. It would be a mistake to think that parties needed to wait for some instruction or mandate from the Council of Parties to deploy the learning and understanding obtained through the process. Indeed, the Inquiry was clear in its intention and hope that its various phases of work would support parties to see and act differently within and, importantly, beyond the process. The Council of Parties has oriented its work to facilitate parties to take action. Considerable time and energy were dedicated to bringing groups together to consider what work is needed and to begin planning and action. This Chapter is reflective of that work. It not only describes next steps but also steps that have been taken or are in progress as part of the journey forward.

As with the other actions, plans, and commitments outlined here, recommendations will not be a surprise or unwelcomed by the parties that have engaged within the Inquiry process.

The fact that some things remain at the level of recommendations reflects one of the learnings from the Restorative Inquiry experience: namely that making change in real time, takes time.

To the extent possible, the Council of Parties intended its final Report would be weighted towards actions, plans, and commitments already made or underway, and less on recommendations coming from the Council. As will be noted in the sections that follow, we have made some recommendations. However, these remain at the stage of recommendations, generally, because of the progress that was possible within the time and capacity of the Inquiry's mandate, rather than because of parties' unwillingness or disagreement. Indeed, generally, the recommendations offered in this Chapter are based on and emerged from discussions and work within the Inquiry. The recommendations in this Report reflect where parties have agreed on the importance of further consideration and work in an area. As with the other actions, plans, and commitments outlined here, recommendations will not be a surprise or unwelcomed by the parties that have engaged within the Inquiry process.

The fact that some things remain at the level of recommendations reflects one of the learnings from the Restorative Inquiry experience: namely that making change in real time, takes time. The shift to an Inquiry model oriented to facilitate and support planning and action within the mandate requires changes to assumptions about the nature and timing of Inquiry work. This is not to suggest the work of this Inquiry is incomplete simply because there is work remaining. Indeed, it was anticipated in the design and objectives of the Restorative Inquiry that this process was not intended to achieve all of the change needed during its mandate. Instead, through its focus on building relationships and planning and action, the Inquiry was designed to support the conditions needed to make a lasting and sustained difference into the future.

That said, however, there are many important insights and lessons from this first experience of taking a restorative approach to a public inquiry, particularly with respect to the time and support needed to enable change of this nature in real time. It was clear from the experience of the Inquiry that expectations of the timing and processes of such inquiries must be adjusted to fully realize the potential of the planning and action phase of work. There also needs to be considerable attention given to ensure the means and mechanisms needed to work in this restorative way. This is true for future restorative public inquiry processes and for a restorative approach more broadly — structure and systematic support is needed to enable parties, particularly across governments and agencies, to participate in the integrated and collaborative ways required. Indeed, it is important and urgent that such mechanisms be developed to support the work outlined in this Chapter in order to ensure success as the mandate is taken forward by the parties to this Inquiry.

The shift sought through these actions, plans, commitments, and recommendations is of a fundamental nature. Such a shift will not be achieved overnight or even in the short term.

Lessons regarding time are also relevant to appreciating the way ahead described in this Chapter. The shift sought through these actions, plans, commitments, and recommendations is of a fundamental nature. Such a shift will not be achieved overnight or even in the short term. The elements described here are a part of this shift and should not be expected to be "completed" on a timeline of weeks or months. Certainly, there are elements that can be implemented and progress made quickly, but success, in terms of this significant shift, will take time. It is important, then, that there is not a rush to simply check boxes on the outcomes from this Inquiry as proof of action. The elements need to be followed through in a way that is aimed at real and lasting change at a fundamental level. It is important that there be a sense of urgency to do better now that we know what needs to be better. However, such urgency should be channelled into ensuring a sustained commitment over time, rather than swift, but fleeting, changes for the sake of action. Patience, persistence, and perseverance will be required to make the shift happen at all the levels and in all the areas required, and in a way that will bring meaningful and lasting change.

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• ***This is not a complete list of the actions, plans, commitments, and recommendations that will be needed***. The elements of the way forward detailed in this Chapter are neither a complete nor comprehensive list of all that will be needed to shift to a human-centred approach, as described in Chapter 6. As noted above, the actions, plans, commitments, and recommendations described here are all oriented to support this overarching shift. Whether they "work" or are "achieved" depends upon the difference they make. It is possible that parties could "check all the boxes" on the elements listed here and still fail to achieve their intended outcomes. What is sought is not simply achievement of a set of actions, but the difference they are meant to make in how we act.

The actions, plans, commitments, and recommendations emerging from the Inquiry are only a start, or partial list, of what may be required on the journey ahead. The Inquiry gave careful consideration to what will be needed to address the central issues. Through the process, parties came together to learn from each other, and from research and experience elsewhere, about what can

The journey to light, including the Inquiry, has shown that it will take bravery, tenacity, and patience to succeed in making the difference we seek. It will require us to revisit our current patterns and assumptions, and to resist habits of mind and action deeply ingrained in our systems that structure what we think and do.

be done to make a difference. As with all journeys, things can happen that will require a change of direction or additional supplies or a different route. We acknowledge and expect this will be the case for the work ahead in support of a shift in approach to systems, institutions, structures, and ways of being with one another for equality and care. The focus on a shift rooted in why and how we need to be different provides a basis for flexibility and responsiveness to meet changing needs and circumstances.

In considering what actions, plans, commitments, and recommendations to make, the Inquiry was concerned to establish and support the conditions needed to make a lasting difference on the central issues of systemic racism, the experience of care, and response to institutional abuse and other failures of care. One of the central beliefs driving the vision and design and the planning and action work of the Inquiry was that making a difference requires attention to the ways in which people can come together to share responsibility and take collective action. This requires setting aside adversarial ways of seeking change, power, and position. While we understand making a difference is something worth fighting for, it is not something that can achieved through fighting with each other. The Council of Parties is under no illusions that the shift it calls for will be easy. The journey to light, including the Inquiry, has shown that it will take bravery, tenacity, and patience to succeed in making the difference we seek. It will require us to revisit our current patterns and assumptions, and to resist habits of mind and action deeply ingrained in our systems that structure what we think and do. While we must fight for change, we must not mistake this as about fighting each other. This is one of the patterns that needs to shift. In trying to do the right thing, we cannot assume we are right or be righteous about what we do. Otherwise, we will resist true collaboration for fear it will require us to change our minds or views, or lose power or position. The focus on winning the fight to be right, then, is potentially distracting and detrimental to the work ahead because it leads to an oversimplification of problems and undermines our capacity to work together for significant change that would benefit all of us and, significantly, our children.

In trying to do the right thing, we cannot assume we are right or be righteous about what we do. Otherwise, we will resist true collaboration for fear it will require us to change our minds or views, or lose power or position.

The actions, plans, commitments, and recommendations outlined in this Chapter are not the final word on what needs to happen, rather they are intended as a start to moving forward in a different way.

- ***The success of the Restorative Inquiry should not be measured by the different things that get done, but by the difference made to why and how things are done.***

Assessment of success cannot simply be based on what gets done — on whether the list of actions, plans, commitments, and recommendations is completed. Of course, this Chapter and the plans, commitments, and recommendations it shares are intended to provide a measure of accountability and guidance in fulfilling the shared responsibility for collective action flowing from the Restorative Inquiry. The suggestion that it should not be treated as a checklist does not weaken the power and influence it should have over what happens next. Indeed, the suggestion that the measure of success should be about impact, and not simply actions taken, requires more, not less, scrutiny and attention to ensuring parties follow through with the actions, plans, commitments, and recommendations. While there may be adjustments and changes to the plans and actions along the way, such departures must reflect the intentions underlying the elements. The flexibility allowed for in the implementation of various plans does not permit compromise on the underlying commitments to why and how we need to make a shift to be human centred. Chapter 6 provides a clear articulation of the commitment to a shift in thinking and practice that underlies planning and action aimed at making this difference.

The work of the Inquiry, including the actions, plans, commitments, and recommendations shared in this Chapter, has been determined mindful of fulfilling the mandate. Responsibility for this mandate is shared by the parties and partners involved. The planning and action phase of the work sought to ensure the relationships and other conditions necessary for parties to take up responsibility for the mandate following the completion of the Restorative Inquiry.

The Nova Scotia Home for Colored Children Restorative Inquiry (RI) will:

EXAMINE the experience of the Nova Scotia Home for Colored Children (NSHCC) as part of the history and legacy of systemic and institutionalized racism, both historic and current, in Nova Scotia.

EXAMINE and seek to understand the experiences of former residents within the NSHCC and the legacy and impact of these experiences for former residents, their families and communities.

EXAMINE the experiences of former residents within the NSHCC for what they might reveal about issues of institutionalized child abuse and prevention and protection in future.

INQUIRE into how the history and legacy of the NSHCC has impacted not only African Nova Scotian communities but all peoples in Nova Scotia and consider how to address this harmful legacy. It will reveal, reckon with and address this part of the harmful history and legacy of anti-Black racism in the Province of Nova Scotia.

EMPOWER those involved in, and affected by, the history and legacy of the NSHCC to learn about what happened and the contexts, causes, circumstances and ongoing legacy of the harms related to the NSHCC.

EXAMINE the role and contribution of various systems, sectors and institutions in the harmful history and legacy of the NSHCC, including, for example: education, justice, health and community services.

ENGAGE affected parties and all Nova Scotians in collaborative planning and action to address this history and its legacy and create change to secure a better future for African Nova Scotian children and their families and communities.

EDUCATE the public about the history and legacy of the NSHCC.

CONTRIBUTE to the goal of social change to end the harmful legacy of abuse and ensure the conditions, context and causes that contributed to it are not repeated.

PUBLICLY SHARE the truth and understanding established through the RI and the actions taken, planned and recommended to address systemic and institutionalized racism and build more just relationships for the future.

AFFIRM and strengthen the cultural knowledge, leadership and health of the African Nova Scotian people and communities as one of Nova Scotia's founding cultures.

MODEL a restorative approach to conflict resolution.

CREATE agenda and momentum for further learning and action on related issues of systemic racism that are revealed through the process.

Actions, Plans, Commitments, & Recommendations

The actions, plans, commitments, and recommendations emerging from the Restorative Inquiry process are detailed below. They are focused on the three central issues that guided the Inquiry's work: addressing systemic and institutionalized racism; the experience of the care system; responding to institutional abuse (and other failures of the care system). This chapter, and the elements of the journey ahead described below, should be read and understood in close connection with the other chapters of this Report. They reflect the understanding gained through the examination and reflection on the history and experience of the Home and the journey to seek a just response for the harms experience by former residents. A detailed account of this history and experience is provided in Chapters 3 and 4 of this Report. What we came to learn and understand through an analysis of the history and experience of the Home is shared in Chapter 5. These chapters provide the basis from which we considered what matters about this history and experience for today and the future of just relations and care in the Province of Nova Scotia. Chapter 6 shares what has been learned and understood through the Inquiry about the change that is needed to make a difference on the central issues — systemic racism, experience of care, and responding to institutional abuse and failures of care. Chapter 6 also provides the essential background, rationale, and insights from the Inquiry (through its processes, research, and consultation with international experts) out of which the actions, plans, commitments, and recommendations in this Chapter came and that should guide their implementation.

These elements form the plan for the way forward on the mandate of the Restorative Inquiry to ensure the lessons from the history and experience of the Home for Colored Children make a positive difference for the future. They are focused on addressing systemic racism and its impacts in order to secure justice and equality for African Nova Scotians and to improve care for young people, families, and their communities across the province.

The actions, plans, commitments, and recommendations arrived at through the Restorative Inquiry are not, however, structured along the lines of the three central issues. As evident throughout the work of the Inquiry, and in this Report, these issues are interrelated; therefore, the work ahead must be integrated. We have also not organized this chapter according to the status or nature of various elements as actions taken, plans underway, commitments made, or recommendations. The Council felt this would be an inaccurate reflection of the progress made within the mandate of the Inquiry and of what is required for the work ahead. Instead, we have shared the areas of work and the elements key to making a real and lasting difference in keeping with the shift to a human-centred approach described in Chapter 6.

The actions, plans, commitments, and recommendations arrived at during the planning and action phase of the Inquiry are shared here under the following headings that reflect areas or pathways forward for the journey ahead. Within each of these pathways, we have identified the steps that have been actioned, planned, committed to, or recommended through the Inquiry.

1. Modelling a Different Way Forward
2. Shift to Human-Centred Systems and Structures
3. Continued Learning and Understanding Towards Just Relationships
4. Human-Centred – Integrated System of Care
5. Children and Youth Commission
6. Restorative Responses to Failures of Care

1. Modelling a Different Way Forward

As discussed above, it is important to recognize the contribution of the Restorative Inquiry as more than a means to an end, but, as itself, an action in real time. The Restorative Inquiry modelled a principle-based, human-centred process through a restorative approach. In doing so, it supported a shift in the way in which participants thought about the issues, the process, and the ways in which they engaged. Through the phases of the Inquiry, parties built relationships, came to new understandings of the issues, and discerned what is needed to make a difference. The process thereby supported the real-time changes needed for parties to plan and act together in ways needed to make a difference. Thus, the Inquiry process itself made a contribution to understanding and modelling the shift to be human-centred. Through its process, the Inquiry met some of its goals and objectives. The process also resulted in actions, plans, and commitments that furthered the broader mandate as part of the different way forward on the central issues of systemic racism, the experience of the care system, and responses to institutional abuse and other failures of care as detailed in the following sections.

...it is important to recognize the contribution of the Restorative Inquiry as more than a means to an end, but, as itself, an action in real time.

2. Shift to Human-Centred Systems and Structures

All of the actions, plans, commitments, and recommendations are rooted in an overall commitment to a shift in our ways of thinking and doing, and to the related structural and system change this shift entails. Through the Inquiry, parties developed a shared commitment to a shift focused on doing the right thing over doing things right — to being human-centred.

Through the Inquiry process, it has become clear that this is not a matter of political orientation (left, right, or centre) or party affiliation. The support across parties and other traditional political divides reveals that commitment to the need for a shift is not a matter of political ideology, but about an understanding of our shared humanity and collective responsibility to ensure the just and caring relationships that flow from it. At its core, this commitment is about the promises we make to each other, and to our children, to ensure the care and concern they need and deserve. It is a commitment that speaks to who and how we want to be with one another. There can (and are) reasonable and reasoned debates to be had about how best to achieve this shared goal. The debates do not, however, cast doubt on the core commitment to each other — and to children and families — about what we value and how they will be treated in Nova Scotia.

The support across parties and other traditional political divides reveals that commitment to the need for a shift is not a matter of political ideology, but about an understanding of our shared humanity and collective responsibility to ensure the just and caring relationships that flow from it.

In many ways, we are fortunate in Nova Scotia to have a long-standing history of living in small and close-knit communities. The importance of connection and interdependence runs deep in the DNA of this province and its people. This is evident from the history of African Nova Scotian communities and deeply reflected in the founding story of the Home. It is also true for Nova Scotia more broadly. The challenges and changes that have marked this province's history, and the adversity that has often accompanied them, has required collectivity and creativity by community members in coming together to care for one another. We have witnessed, through the Inquiry, the importance and depth of commitment to connection and interdependence as core values worth pursuing and protecting.

The importance of connection and interdependence runs deep in the DNA of this province and its people.

The importance of these values to our well-being as individuals, groups, communities, and a province, underpin why we seek a shift to a human-centred approach. As detailed in Chapters 5 and 6, the lessons of the past have shown us that the silos and fragmentation of our current system-centred approach get in the way of our caring well for one another. Through this work, we have come to see the necessity of placing human beings and their needs at the centre of the systems and structures that seek to care for them. This will require a relational/integrated approach that places people at the centre and, in response, will require systems, institutions, policies, and programs to work differently, in more integrated and holistic ways. It is a commitment to this shift that informed the planning and action work of the Inquiry and underpins the actions and plans described in this Chapter.

...the lessons of the past have shown us that the silos and fragmentation of our current system-centred approach get in the way of our caring well for one another.

The Restorative Inquiry is not the first to recognize that such a shift is needed. There has been broad-based recognition of the problem of a system-oriented approach and of silos and fragmentation. This process and Report are actually part of a growing chorus recognizing the problems and the need for a change. Indeed, this issue has received attention (implicitly and explicitly) in many of the public inquiry or review processes in Nova Scotia over the past two decades. Of particular note are the reports from the Marshall Inquiry (Royal Commission on the Donald Marshall, Jr., Prosecution), the Nunn Commission of Inquiry, the reviews into Rehtaeh Parsons' suicide (including of the roles of justice, health, and education), the Action Team on Sexual Violence and Bullying, the Kaufman Report, and the Hyde Inquiry. In different ways, each highlighted silos and gaps in systems and services through which people and issues fell. There is then an emerging recognition, if not consensus, of the problem and its nature. However, solutions have been out of reach even when the nature of the change needed has been named and pursued.

Too often, governments and agencies responsible for the systems and services have resisted the idea of a fundamental shift in the structure of systems and ways of working. This is not merely a lack of will, but, rather, often of capacity and skill. Such change takes a long time — it takes patience that is often lacking in the face of frustration and public outrage at urgent and pressing problems and failures. In place of a fundamental shift, efforts have generally focused on coordination of silos and systems to try to make things better. These efforts have sometimes succeeded in making things better — they have helped ensure things are done right or better *within* the system. However, they have not brought about a real and lasting difference in terms of doing the right thing. For that we need relational and integrated ways of thinking, working, and of structuring our systems and services.

Chapter 6 considered in some detail the nature of the shift and what it means for dealing with systemic racism, the system of care, and responding to failures of care including institutional abuse.

Throughout the Inquiry, we have been attentive to the need to build upon areas of strength in Government and community where efforts at change, consistent with the shift we are seeking, are underway. We wanted to avoid the risk that in seeking change we ignore that which should be retained or amplified. The Inquiry was charged with making a difference, but difference is not achieved by change for change's sake. It requires meaningful change for young people, families, and communities in Nova Scotia. Parties in the Inquiry shared the efforts, programs, policies, practices, and people currently making such a difference. It is essential to critically examine such current efforts to ensure they will contribute to the more fundamental shift we intend. Where this is the case, the way forward must energize and amplify these efforts in support of a shift in the ways of working within and across systems and communities to realize lasting change.

3. Continued Learning and Understanding Towards Just Relationships

The Restorative Inquiry began its work following the historic apology by Premier McNeil on behalf of the Government of Nova Scotia. This apology was to the former residents of the Home and also to the African Nova Scotian community for the systemic racism that has marked the Province's past and continues to structure relationships of power and privilege in Nova Scotia.

> *To the African Nova Scotian community: we are sorry. The struggle of the Home is only one chapter in a history of systemic racism and inequality that has scarred our province for generations.*
>
> *African Nova Scotians are a founding culture in our province—a resourceful people of strength. The Home for Colored Children was birthed in the community as a way to meet a need that was not being met.*
>
> *We must acknowledge that in many ways, and for many years, we as a province have not adequately met the needs of African Nova Scotian children and their families. We are sorry.*
>
> *As Nova Scotians—as a people, walking together—we must do better. An apology is not a closing of the books, but a recognition that we must cast an unflinching eye on the past as we strive toward a better future.*

The commitment was clear. The apology acknowledged the failures of the past and also committed to a different future. It is a commitment to walk together to create that better future and a recognition that responding to the history and experience of the Home is only one step in that journey forward together. It is vital then, in support of this commitment to a different future, that the learning and understanding achieved by looking back at the Home through the Restorative Inquiry be shared broadly with the African Nova Scotian community and, importantly, with all Nova Scotians.

The following actions, plans, commitments and recommendations are aimed at ensuring the learning and understanding achieved within the Restorative Inquiry is shared and mobilized in support of securing just relationships. Particular attention has been paid in planning and action to shifting the understanding and approach to addressing systemic racism, particularly in the context of the system of care and responses to its failures.

3.1 Records Access

i. Former Residents

Central to the mandate of the Restorative Inquiry was learning what happened in terms of the history and experience of the Nova Scotian Home for Colored Children. Throughout this work, the

Council of Parties was struck by the lack of records and other information related to the young people most central to the history and experience of the Home. Our understanding has been informed and significantly enriched by the memories of former residents and those within the community and the care system who were involved or connected to the Home. Many former residents shared how little information they have access to about their lives before the Home, their time in the Home, and their time in care. Some indicated they do not know where to go to find such information. Others who have accessed their information through the Home and Department of Community Services over past decades expressed frustration with that experience. They found the processes confusing and time consuming, particularly because information was kept both in files at the Home and at Community Services (and sometimes with the child welfare agencies involved in their apprehension). Once they gained access to their file(s), many expressed concern about the accuracy or scarcity of information contained about their time in care. For some, these files represent all of the information they have about their childhood. Former residents expressed frustration that access to some information within the files was blocked (redacted). The reason (often to protect the privacy of other individuals) was often unclear to them. Given that this access often happened in the context of adversarial processes against the institutions and agencies involved, the redactions often felt like something was being hidden from them. Others found the process difficult or traumatic as they discovered difficult or painful details of their lives sitting in a government office and controlled by the rules of a bureaucratic information-access process. The process lacked the care or support they felt was needed for the humane experience of learning such information. The Inquiry heard similar experiences and concerns from the young people with care system experience.

Many former residents shared how little information they have access to about their lives before the Home, their time in the Home, and their time in care. Some indicated they do not know where to go to find such information.

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Through the Restorative Inquiry's efforts to access information required to fulfil its mandate, we have come to understand that records related to former residents' time at the Home are uneven. The records are very thin in terms of information and accuracy for a significant period of the Home's history. Records (and recordkeeping practices) improved over time. Records are more comprehensive and complete (at least

with respect to administrative details) during the later years of the Home, particularly after the opening of the New Home. They continue, though, to be devoid of robust personal information regarding the young person's life and experience in the Home. Many former residents have multiple files (particularly from the later decades): one at the Home, and others maintained by State authorities. Since the Department of Community Services has centralized responsibility for children in care, these files are now held by the Department. One of the early examples of the ability of the collaborative approach of the Inquiry to make change in real time related to the process for records access for former residents of the Home, and, by extension, others formerly in care. The Department of Community Services responded immediately to learning about the issues and experiences of former residents of the Home in trying to access information about their life in the Home. They committed to working with the Inquiry to provide a streamlined process for former residents to access information about their time in the Home. They also committed to learn from this experience in order to improve the approach to records access for young people in the care system more broadly. This work is underway. Former residents can contact (via email) **CS_Privacy@novascotia.ca** for support in accessing their records, or by regular mail:

Department of Community Services
5675 Spring Garden Rd (3rd Flr)
Halifax, NS B4C 2T8

The work of the Inquiry has resulted in streamlined access for former residents to their records in another way. The subpoena power of the Inquiry was helpful in clearing real or perceived barriers for the Board of the Akoma Family Centre and Akoma Holdings to provide access to the historical records of the Home for Colored Children. These records remained in their possession after the Home ceased to operate and the Akoma Family Centre and Akoma Holdings were established. The Akoma Family Centre took up operations on the Home site and Akoma Holdings took possession of the property and assets of the Home. The Restorative Inquiry obtained these records in conjunction with its mandate. In order to ensure additional care and security for former resident case files (that formed part of the records holdings obtained), the Inquiry asked the Department of Community Services to store these files alongside the other children-in-care files in their possession during the Inquiry's mandate. Given the Home is no longer an operating child-caring facility, the Department determined it was proper for the former residents' case files to be retained permanently by the Department. The existing records are under the control of the Department of Community Services, which will make it easier for former residents to access their records through a single process. As a result, it is now possible for

The Department of Community Services has applied lessons from the experience of former residents, shared within the Inquiry, to ensure the process of records access is human-centred — streamlined, clearly explained, with care and support provided.

former residents to have integrated access to records pertaining to their time at the Home. The Department of Community Services has applied lessons from the experience of former residents, shared within the Inquiry, to ensure the process of records access is human-centred — streamlined, clearly explained, with care and support provided.

ii. Home Records

As the Inquiry delved into the records and historical information about the Home, it also became clear how little information is publicly accessible about the Home. As described in Chapter 2, Nova Scotia Archives have some information related to the Home, including relevant annual reports from the Superintendent of Neglected and Delinquent Children and, later, the Director of Child Welfare. Other public archives in the province and nationally have some documentation, including that related to the AUBA, held at the Esther Clark Wright Archives at Acadia University. By far the most significant body of records, though, were held by the Akoma Family Centre and Akoma Holdings Boards in the Home's files (the "Home Fonds"). As we acknowledged in Chapter 2, there are significant gaps in the historical records of the Home. The loss of records appears attributable to both natural and human causes. Some records reportedly succumbed to water damage from a flood at the Home site. Others seem to have been discarded as part of a downsizing, perhaps during the move to the New Home site. Other gaps appear to be the result of recordkeeping practices and standards (or the lack thereof) during the earlier periods of the Home. The wholesale absence of minutes from the Home Board meetings for almost the entire first half of its existence suggests they may have been retained or stored with Board members or maintained in a single source (like a minute book) that may be stored somewhere else or has been destroyed.

Despite the fact that there are gaps in the Home's records, they form an important part of the historical record of the Institution and its place in the history of the African Nova Scotian community and the Province. The Inquiry reviewed all of the available documentation in order to provide a general overview of the history of the Home as it pertained to the mandate and central issues. The Inquiry did not, however, seek to write a comprehensive history of the Home or its significance. There have been some efforts to examine this history. As noted in Chapter 2, and in the analysis of the history of the Home in Chapter 5, significant misunderstandings and limitations persist in the written, public, and commonly told narratives about the Home. In part, these reflect long-held beliefs that have been treated as fact because there has been no cause or occasion until now to examine or challenge them. Other limitations in these existing historical accounts reflect either the lack of historical records or lack of access to those records that do exist. It is hoped the Inquiry's efforts to produce an accurate account of the history of the Home in support of learning and understanding about our three central issues will serve as a helpful foundation for continued research and exploration of the history of the Home and its place in the history of African Nova Scotians and Nova Scotia.

It is vital to these future efforts to continue to learn and understand the history, experience, and significance of the Home that existing records be protected and made accessible for future study. The records of the Home are an important community and public resource. Our experience working with the Home files has revealed both the significance and vulnerability of this resource. Given that the Home is no longer operational (see explanation in Chapter 4), the Inquiry had to determine who should hold the records following the end of its mandate. In discussions with the Akoma Boards (including members who were formerly on the Home Board), the Department of Community Services, and the Nova Scotia Archives, all parties agreed on the significance of the records and the need to ensure their preservation and protection. They also recognized the need to ensure access to information for generations to come.

The Inquiry determined that the Department of Community Services continued to hold a fiduciary responsibility with respect to the historical operations of the Home as a child-caring institution; therefore, it was agreed the historical records of the Home would be turned over to the Department. The Department has committed to work with the Nova Scotia Archives to ensure preservation, protection, and public access (to the extent possible according to policies and practices). The Nova Scotia Archives also provided vital support throughout the work of the Inquiry to facilitate future public access to the documentation referenced and relied upon in this Report. The Archives has committed to, and is actively planning for, the care and maintenance of the historical records of the Nova Scotia Home for Colored Children.

3.2 Community Conversations Initiative

Community participation in the Restorative Inquiry has been central to understanding and addressing the complex, multi-generational history and experience of the Home and its connection to the history and experiences of African Nova Scotian communities. This relationship was significantly shaped by systemic racism in Nova Scotia. In circles with community members, they acknowledged the important role of the Home in the African Nova Scotian community and spoke of the pain of learning that children had been abused and often suffered in silence. Community members reflected on the culture of silence within the community. As discussed in Chapters 5 and 6, they recognized it as part of the impact of systemic racism within the community. Systemic racism has fragmented and divided communities and community members one from the other. As discussed in Chapter 6, racism has been internalized within the African Nova Scotian community in ways that has impacted and destabilized leadership within communities and undermined connections between leaders and community members. This has rendered it unsafe, or challenging, to confront difficult and painful issues and failures within the community. These impacts have meant a lack of opportunities, mechanisms, and support for community dialogue and conflict resolution contributing to the culture of silence in the face of difficult issues.

In the wake of community silence, Government has often looked to a small group of familiar leaders from the African Nova Scotian community to represent the African Nova Scotian community's concerns and interests on issues. As we learned through the experience of the response to abuse in the Home, this approach to representing and engaging community is often fraught for those who are called on by Government, and often lacks legitimacy in the eyes of community members. This is made worse by the lack of spaces, opportunities, and capacity for community to come together to hear one another and understand diverse experiences and perspectives within the community.

The Restorative Inquiry process brought former residents into circles with members of the African Nova Scotian community. They shared the stigma they felt within the community as "Home children." They talked about how they felt silenced both as children and as adults in trying to bring their harms to light. They described how they felt the culture of silence and shame helped protect their abusers within the community and prevented people of influence in their lives from speaking up — including teachers, police who returned runaways to the Home, and family and community members who avoided talking openly about the Home.

Many former residents and community members welcomed the opportunity the Restorative Inquiry provided to begin these very difficult, yet necessary, conversations — to learn from the past, to understand and address the painful aspects of this shared history, and to consider how to walk together towards a better future.

Participants recognized that the journey of healing for former residents and the community will take time. They acknowledged the legacy of the Home is part of the broader impact of systemic racism in Nova Scotia and expressed hope that understanding and addressing the harms surrounding the Home will open the door to addressing those larger issues.

Through its work with former residents and community, the Restorative Inquiry heard a desire and commitment to continue to engage together, as community, in these discussions about the history of the Home, the experiences of former residents, and the significant impact of the history and experience of systemic racism on relationships within community. Community members spoke of the importance of breaking the silence about the past in order to understand and support a better path forward together. Such mechanisms and processes are essential to ensure the community knowledge, experience, and participation that is integral to understanding and acting together to address the central issues identified through the Inquiry.

Community members spoke of the importance of breaking the silence about the past in order to understand and support a better path forward together

Participants identified the importance, and the challenges and difficulties, of fostering a different way forward within community. They noted how few opportunities exist to speak with one another and, importantly, with those that have taken up leadership roles within and on behalf of the community in these different ways. They recognized the need to foster and support more opportunities, like this Inquiry, to talk to one another about difficult and sometimes painful issues, and to work together for integrated and collaborative responses.

As discussed in Chapters 5 and 6, the culture of silence, and the silos and fragmentation that contribute to it and maintain it within the community, are a consequence of systemic racism. The story of the Home reveals how systemic racism impacted the roles and relationships of the community in pursuing care for children and families. It sowed significant divisions as members of the community made choices about how to navigate the power and privilege of the white establishment. As outlined in Chapter 6, the systemic and institutionalized nature of racism facilitated its internalization within communities and individuals by structuring their relationships and interactions in the world. This impacted relationships within the community, creating social distance between and among community members and their leaders.

Systemic racism has sowed divisions and created conflicts that inhibit the dialogue necessary within community to reveal and address problems and failures. For example, those who participated within the Inquiry were honest about their hesitancy at first to participate, for fear it would cause harm within the community. Given past experiences, there was a real sense that it is best not to talk about such things. Yet those who took part in the Inquiry circles remarked on the importance of taking the time to talk to one another about difficult and painful issues, and to reflect on relationships within the community. There was a clear consensus within the circles that these were important conversations and that there needed to be more of them.

Participants identified the desire to create more opportunities to talk within the community in this different, restorative way. It was hoped that taking a restorative approach within the community would foster better connections and relationships between leaders, community institutions, and members of communities. Following the example set by the Restorative Inquiry, such an approach within community would enable relationship building and learning and understanding in support of collective planning and action. Community participants noted the potential of such an approach to ensure a diversity of voices and views within the community. It would also, they thought, support better Government–community relations because it would provide a better mechanism for those in leadership (in community and Government) to hear from community in more authentic ways. It would also address the significant issue of Government talking to only a few “leaders” in order to discern the view of all African Nova Scotians.

Based on the experience and feedback of community members within the Restorative Inquiry, work began during the planning and action phase to consider ways to continue the restorative

approach to healing and strengthening relationships within the community. It was seen as important to do this both with respect to the history and experience of the Home and, more broadly, to deal with issues of systemic racism and its impact within the African Nova Scotian community.

The Restorative Inquiry experience has revealed how difficult and painful revelations about the history and experience of the Home can be for many within the community. The Inquiry made significant efforts during its mandate to open space and opportunity for members of the African Nova Scotian community to be engaged. There was obvious concern and hesitancy about participating in a process that might cause harm within the community. It took considerable time to build trust within community that the Inquiry would honour its commitment upon which it was founded and seek to do no further harm. This does not mean the process did not tackle difficult and painful issues, but, rather, that it did so guided by Sankofa — with a commitment to learn from the past to move forward to the future, rather than look back to find blame.

Trust was established through the experience of the Inquiry process because it took care and attended to building relationships in which learning and understanding were possible. As trust was established, community members became more actively engaged within the Inquiry process. There was a strong sense this engagement was gaining momentum as the Inquiry concluded its mandate. The conditions and opportunity to build upon this progress and opportunity was a focus during the planning and action phase of work.

The history and experience of the Home is a powerful example of the complexity of issues of systemic racism within the community. In order to tap the potential for the restorative approach to dialogue begun during the Restorative Inquiry to continue in future within the African Nova Scotian community, the Inquiry worked with the Office of African Nova Scotian Affairs, community-based organizations, and community members with experience in facilitating restorative processes, to consider how best to foster and facilitate further community conversations. During the planning and action phase of the Inquiry, models for community conversations were tested. Lessons learned from these community conversation experiences informed the planning for a provincewide initiative aimed at identifying and opening up important discussions within the community, and at building capacity within the community to work in this way in future.

A community conversations initiative is now planned to follow the release of this Report and serve as a mechanism for the community to consider and discuss what has been learned and understood about the Home through the Restorative Inquiry. The community conversations initiative will be coordinated and facilitated by the Office of African Nova Scotian Affairs with support from VOICES and community-based facilitators.

The initiative will consider the lessons, experience, and outcomes of the Restorative Inquiry in terms of understanding and contending with the history of the Home and its impacts. It will engage and support African Nova Scotian community members, individuals, groups, and organizations to consider what the learning and understanding from the Inquiry means for the community. This will provide support to hear, understand, and heal from the harmful aspect of the past in the spirit of Sankofa — bringing that knowledge and understanding which is good and important forward for the journey ahead.

There are issues raised within the Inquiry and shared within this Report that raise important issues and questions for the African Nova Scotian community as part of the journey forward. Examples include:

- The response to former residents when they shared their experiences of abuse showed the culture of silence within the community related to issues of abuse, particularly sexual abuse and violence within families. It is important to open up spaces and places for honest discussion of these issues within community.
- Dealing with the history and experience of the Home revealed the need for greater connection and communication between community members and those in leadership roles.
- The history of the Home reveals the importance of the Home as a shared community resource, a view that remains for many, as expressed during the Inquiry process. The community will have to explore the implications of the legacy of the Home, and its originating purpose as a resource dedicated to benefiting the African Nova Scotia community, given it is no longer operative and its historic site is no longer directed to this purpose and vision.
- The future of the Home site and its significance are also complex and enduring for former residents. Given that the site is now owned by Akoma Holdings and no longer dedicated to the Home's community purposes, there may be a need to work together with the community to build a common understanding of the legacy of the Home and a commitment to the lessons learned.

The community conversations initiative is not limited to reconciling what happened with the Home. As this report attests, the lessons from the Home are about more than this one institution and its history. They are lessons about systemic racism, about the nature of the care system, and how we respond to its failures. For the community, this is but one example of the impact of systemic racism. There are lessons that are transferable about the nature of systemic racism and the processes needed to address it and the impacts on and within the African Nova Scotian community. As discussed above, the initiative will support continued healing within the community related to the Home and the harmful and painful aspects of this part of the African Nova Scotian community's history. However, the focus on the Home is intended to serve as

...the focus on the Home is intended to serve as an entry point to broader issues at stake, including breaking the silence about difficult issues within the community and establishing new ways of fostering understanding and inclusion within the community.

an entry point to broader issues at stake, including breaking the silence about difficult issues within the community and establishing new ways of fostering understanding and inclusion within the community.

The initiative is intended to serve as a catalyst to shift the ways in which similar issues impacting the community are approached. It will provide an opportunity for members within the African Nova Scotian community to engage with one another to explore the impacts of systemic racism on relationships, systems, and culture within the community. The initiative will be designed explicitly to contribute to community capacity to take this approach on an ongoing basis to support community well-being and collective action. In order for the process to have the intended effect — to support the way forward and not cause more harm through blame and defensiveness — the initiative will take a restorative approach to community conversations.

The initiative will facilitate a series of community conversations in African Nova Scotian communities throughout the province beginning in 2020. The Office of African Nova Scotian Affairs (ANSA) has worked in collaboration with others from the community through the Restorative Inquiry planning and action phase to envision the initiative. It will be designed to invite and encourage leadership and participation from key parties within the community who have been connected to the Inquiry and the history of the Home, including, for example, the AUBA and VOICES. ANSA will continue its role to plan and convene these community conversations. They will be supported in this initiative by community-based facilitators who have been engaged in planning the initiative as part of the Inquiry. They will prepare and support communities to host and engage in these community conversations.

3.3 Increasing Police Awareness: Coming to understand the Home & Systemic Racism

As indicated previously, police partners have participated throughout the Inquiry process. Throughout the work of the Inquiry, the importance of police as both part of the system of care and in response to institutional abuse and failures of care has been clear. They have identified the significance of the shift to a human-centred approach, including working in integrated and holistic ways as a part of the care system. Police will have contributed to learning and understanding and will have an important role in the elements described below that seek to support that shift.

Police shared that participating in the Inquiry provided an opportunity for reflection, learning, and understanding through the lens of the history and experience of the Home and their connection to it. Through the example of the Home, they were able to see the impacts of the siloed and fragmented approach and of systemic racism on the roles they played in that history. It provided significant insights and learnings for how they approach their roles and responsibilities now and in the future. This was reflected, for example, in the apology offered by the RCMP participants in the process.

> *On behalf of the Nova Scotia RCMP, I am sorry for the pain and suffering that the survivors have endured. No child should have had these experiences and trauma. I hope that the survivors know that their voices have been heard and that the RCMP in Nova Scotia have and will continue to implement changes to reduce the likelihood of this occurring in the future.*
>
> *Marlene Snowman*
> *RCMP Chief Superintendent, Nova Scotia*
> *March 18, 2019*

Reflective of the significance of their learning within the process, and their commitment to mobilizing that learning to make a difference for the future, the RCMP invited the Inquiry and VOICES to be a part of their internal training sessions related to understanding and addressing systemic racism through a module on the African Canadian Experience.

Based on the work of the Inquiry, a part of the module was developed to increase knowledge and understanding of the significant role of the NSHCC in the history and culture of African Nova Scotians in this Province to gain a deeper understanding of the impact and legacy of harms endured by former residents, and the centrality of trusting relationships at individual, community, and institutional levels. The role of police was centrally considered within the history and experience of the Home. Members of the RCMP engaged together in this module through a restorative approach to learning.

This shared learning experience enabled members to deepen their understanding of the police role in the complicated story of the Home, how it impacted their relationship with former residents and the broader African Nova Scotian community, and what they can do differently as they move forward.

This module is an example of the partnership in learning and understanding made possible through the Inquiry. It took what mattered about the story of the Home and experience of former residents and reflected on what is required for more just relations for a healthy and respectful future. The module was offered three times during the Inquiry mandate: once in 2018, and twice in 2019. There is a commitment to include this learning opportunity as part of future training and development.

3.4 Digital Oral Histories for Reconciliation (DOHR): The Home for Colored Children Initiative

Early in its work, the Restorative Inquiry considered its mandate for public education. The Inquiry was responsible to:

EDUCATE the public about the history and legacy of the NSHCC.

CONTRIBUTE to the goal of social change to end the harmful legacy of abuse and ensure the conditions, context and causes that contributed to it are not repeated.

PUBLICLY SHARE the truth and understanding established through the RI and the actions taken, planned and recommended to address systemic and institutionalized racism and build more just relationships for the future.

...the DOHR project offers an important opportunity for young people to develop historical consciousness about the history of African Nova Scotians and about the systemic racism that has marked the history of this province.

The story of the Home offers important insights and lessons about systemic racism and the needs and experience of African Nova Scotian young people in particular, and young people generally, with the system of care. The Inquiry recognized the importance of centering the voice of former residents who shared their experiences as young people within the Home and with the system of care. The Inquiry also benefited from hearing from young people with recent and current experiences of care. The resonance across these experiences, and the power of bringing former residents together with young people within the African Nova Scotian community with experience in care and more broadly, was striking. It made clear the importance of sharing the learning and understanding about the Home with young people if it is to make a lasting difference. The Inquiry partnered in the creation of the Digital Oral Histories for Reconciliation (DOHR) project to engage young people in the process of learning and understanding towards making a difference for the future. The Home is an important part of Nova Scotia history. By engaging with this history, the DOHR project offers an important opportunity for young people to develop historical consciousness about the history of African Nova Scotians and about the systemic racism that has marked the history of this province.

DOHR involves a partnership with former residents of the Home through VOICES and educators, historians, legal experts, and gaming specialists. The Inquiry joined VOICES in partnering with the Nova Scotian Department of Education and Early Childhood Development and other community partners, together with academic researchers from across Canada with expertise in oral history, history education, virtual reality reconciliation, and a restorative approach in education, to bring the history of the Nova Scotia Home for Colored Children to schools. The project will be piloted first for grade 11 students as part of the Canadian history curriculum. Through the leadership of Dr. Kristina Llewellyn at the University of Waterloo, the project received funding support from the Social Science and Humanities Research Council of Canada.

The project has been designed to support students to examine their relationship to this knowledge and to understand it in the context of the history of the African Nova Scotian people and the history of systemic racism in Nova Scotia and Canada. The curriculum is guided by the Sankofa commitment to looking back with a focus on its significance for the future. The approach to the curriculum reflects the restorative approach of the Inquiry. Through the use of oral histories, shared in virtual reality, the project centres the voices and lived experiences of former residents. The curriculum shared the oral histories of former residents of the Home and engages students in lessons about the significance, causes, and implications of the Home.

The DOHR history curriculum was completed (including a virtual reality experience in which students experience the oral histories of former residents from different generations at the Home) in collaboration with the Inquiry. It serves as an important mechanism to share the learning and understanding of the history and experience of the Home developed through the Inquiry. The two-week curriculum was piloted in two schools in Nova Scotia from October 28 to November 8, 2019.

The DOHR partners are committed to continuing the work on the project after the Inquiry completes its mandate. They will be studying the pilots to assess how young people made sense of the historical harm of the Home and how that knowledge may help them to build healthy relationships in the community in future. Researchers will consider different aspects of the curriculum: how virtual reality storytelling develops students' understanding of history; how historical thinking concepts, like significance and evidence, help students learn about difficult knowledge; how a restorative approach supports students' understanding of harms that seeks to build a better future. Partners will then assess the potential to expand upon the pilot to offer the DOHR project in schools throughout Nova Scotian and beyond. For more information, please visit **www.dohr.ca**

3.5 Video Series: The Nova Scotia Home for Colored Children & the Journey to Light

This Report contributes to the Inquiry's mandate to public education and to sharing the learning and understanding achieved through the process. As part of the final reporting, the Inquiry worked with award-winning Nova Scotia filmmaker Sylvia D. Hamilton (whose work explores the lives and experiences of people of African descent with a particular focus on African Nova Scotians) to produce a video series that would reflect the history and experience of the Home, the Journey to Light and the work of the Restorative Inquiry as part of this journey. The five-part video series follows the wisdom of Sankofa in looking back at the history of the Home and the journey forward towards the future through the Restorative Inquiry.

The videos share reflections from participants on the nature, experience, and impact of the different way forward through the Restorative Inquiry. The videos are available online at **restorativeinquiry.ca**:

- Part 1: The Nova Scotia Home for Colored Children: A Brief History
- Part 2: The Journey
- Part 3: What is a Restorative Inquiry?
- Part 4: Experiencing the Restorative Process
- Part 5: What Difference Did it Make?

3.6 Interactive Museum Exhibition

As the Restorative Inquiry process and this Report reflect, the Nova Scotia Home for Colored Children is a powerful and important example through which to understand the complexity and impacts of systemic racism in Nova Scotia.

Through the Inquiry, partners came together to considered ways to ensure Nova Scotians can continue to engage with the learning and understanding achieved during the Restorative Inquiry. It is important they do so in a way that invites and equips them to walk together on the journey to a better future. Both the DOHR project and the video series are important resources in supporting further public engagement to learn and understand better the history and experience of the Home as an example of systemic racism, its legacy, and impacts.

Through the planning and action phase of the Inquiry, partners envisioned and committed to the development of a mechanism to support continued public education and engagement. The DOHR project's virtual-reality experience, in which three former residents share their experience of the Home in their own voices; the related DOHR curriculum; the video series; and this Report will all be used as the basis for developing a permanent and travelling museum exhibition. This exhibition will be developed in collaboration with VOICES, the DOHR project team, the Black Cultural Centre, African Nova Scotia Affairs, and the Department of Communities, Culture and Heritage.

This exhibition will find a permanent home at the Black Cultural Centre. This is an important site for such an exhibition for many reasons. The Home holds a significant place in the history of the African Nova Scotian people. It is a testament to the community's resilience and commitment to care for one another in the face of systemic racism and its impacts. The absence of any current display on the Home at the Black Cultural Centre is a notable gap in representing the history of the African Nova Scotian community. The Black Cultural Centre also holds particular significance as a place for learning about the Home because it sits on land donated by the Home (given in keeping with the original commitment that the Home and its land would be used in support of, and for the benefit of, the African Nova Scotian community).

The parties to the Inquiry recognized there is a real opportunity to develop an exhibition in ways that would not previously been possible before the relationship building, and learning and understanding during the Restorative Inquiry. The exhibition will be developed with significant input from former residents and community to reflect the importance of this story for former residents, the community, and all Nova Scotians. It will be developed in the spirit of Sankofa so all Nova Scotians, visitors to Nova Scotia, and Canadians more broadly might be able to look back to learn and understand with a view to building capacity and support for the journey forward together.

4. Human-Centred—Integrated System of Care

4.1 System Changes for a Human-Centred Approach — Re-orientation to Family-Led Decision-Making

The story of the Home, as we have come to understand it through the Inquiry (as detailed in Chapter 5), reveals it was founded on a fundamental commitment of family and community to care for their children and young people. The Home was established and continued to be supported as an important part of the African Nova Scotian community's system of care. The overwhelming sense of the importance of its mission was deeply rooted in a recognition of the vital role of family and community connection in care. It was, in this sense, a reflection of the centrality of family and kin connection within the African Nova Scotian community. We also came to understand, through the Inquiry, that the depth and nature of the harms experienced by former residents were, in part, related to the failure to deliver care reflective of that connection to family and community.

The Inquiry also revealed the significance of relationship and connection to family and community is not unique to African Nova Scotian young people. It is core to the experience of children and youth with systems and care, and to the response to failures of care.

As discussed in Chapter 6, a shift to human-centred care requires attention to the importance of relationship/connection with family (understood broadly). This requires re-orienting and equipping the whole system of care to support the caring role and capacity of families. A human-centred system of care recognizes that such relationships play an essential role in the well-being of young people and are, thus, protective. The overall system of care must surround and support the caring role of family, rather than intervene in ways aimed at serving or protecting children apart *from* relationship and connection with family. It has become clear through the work of the Inquiry that this is not the responsibility of the child protection system alone. Indeed, the holistic, proactive, and responsive

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Authentic partnership must involve sharing power and authority with family to support their decision-making role in the provision of care.

nature of the care needed cannot be left to, or even led by, child protection systems if we are to achieve the shift to human-centred care we seek.

As discussed in Chapter 6, there is a significant commitment in current child welfare to be "child-centred" with a commitment to "partnership" with families in the provision of care. Yet this commitment to partnership has not shifted the system towards a human-centred approach in the ways identified as essential to make a difference in the experience of care. Instead, partnership is often concerned with involvement or engagement of young people, families, and community within the bounds of (or in service of) system imperatives and goals. Authentic partnership must involve sharing power and authority with family to support their decision-making role in the provision of care. True partnership, as described in Chapter 6, requires a commitment to family empowerment and an approach that can make this real in practice. This commitment must be reflected in the nature of the system and structures, and not merely in the processes and programs they employ. Thus, the shift to be human-centred must be rooted in a fundamental shift in the system that should then find expression in the policies, programs, and practices throughout the system of care.

The work of the Inquiry, including the lessons it gleaned from the history and experience of the Home and from the existing research and experience of other jurisdictions, points to the importance of securing real changes in the assumptions, relationships, and structures that govern the system of care if we seek to make a lasting and sustainable difference. New policies, programs, and practices alone are insufficient.

As discussed in Chapter 6, parties to the Inquiry spoke powerfully of the need for changes at structural and systemic levels in order to support a shift in the ways of working and in what is done within the system of care. It was in this context that Government and community organizations and agencies involved across the system of care (justice, education, health, community service — including child protection) came to understand the importance of family-led decision-making (FLDM) as part of the shift to a human-centred approach to care. FLDM then must be understood as a call for a fundamental shift in the approach and orientation of the system, not simply as a process through which families might participate more in the system of care.

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Parties have agreed FLDM should form a central commitment of the system of care. During the planning and action phase of the Inquiry, parties from Government and community explored the implications of this approach for the system of care and have begun plan for implementation of the elements required for this system shift.

As detailed below, this work has included a commitment to a prototype of a family-led decision-making model at the community level. It is important to recognize this prototype as a way of testing and demonstrating the shift in the system, rather than as a means and mode of FLDM.

Principles Core to Family-led Decision-Making (FLDM):

- Family recognized as having a pivotal role in the care and protection of children and youth.
- Connection to family is crucial and, wherever possible, should be maintained and every effort made to support children/youth to be cared for within family networks.
- Children/youth should have broadest possible network of family around them.
- Collective and collaborative decision-making process.
- Culture must be respected and reflected throughout the system of care.
- Systems are oriented and committed to support and empower family decisions and plans.
- Information sharing in support of integrated and holistic approach required for family-led decision-making.

It is clear that any model must be reflective of a deeper and broader system shift, and not simply an alternative delivery model within the system. To this end, system partners have worked to identify the elements and changes necessary for such a system shift as the required conditions and supports needed for an orientation to FLDM.

As discussed at length in Chapter 6, FLDM is not a process (or program or practice model), but a commitment to a human-centred way of working. It is grounded in relational principles and reflects a restorative approach. It is aimed at shifting the character and orientation of the system of care in Nova Scotia. The work underway is not about a one-off introduction of a practice or process as part of child protection processes. It is more transformative and ambitious. Its objective is for FLDM to become the way of decision-making throughout the system of care.

This will require a shift at the level of structures and systems that must be reflected in practice as the way of thinking about and then approaching care. It will require a phased implementation aimed at shifting the system and experience of care for all children/youth/families and community.

Family-led decision-making then is an expression of human-centred care and is intended to drive a shift in the whole system of care. As we learned through the example of the Home, decision-making is key to the way in which systems are structured, governed, and operated. The focus on FLDM requires a fundamental shift in the way we think about why and how systems of care work. As detailed in Chapter 6, it requires flexible systems and services tailored to the needs of families and relational networks. Placing families at the centre of thinking and decision making

Placing families at the centre of thinking and decision making about care will shift the role of systems and services and, in the process, their relationship to one another.

Child/youth focused, family-centred process

- Family group including child/youth convened and empowered to make decisions regarding plan for care and support.
- Systems share power, support, and respect decision making unless safety risk requires different plan.

Approach applies to all decision making to care decisions for children and youth

- Common principled commitment across care system for children and youth (should shape the approach of social services for children and youth across the whole system of care and not only those on the edge of care [child protection services or in care)
- *Entitlement* for young people on the edge of care and within care system (applies to decisions regarding care interventions and within care system) or facing state intervention in decision making about fundamental issues
- Include support for *family meetings* and more formally supported *family conferences*

about care will shift the role of systems and services and, in the process, their relationship to one another. It will require collaboration and integration of systems and services in order to work together to support FLDM and the resulting approach and plans for care.

Chapter 6 provides important background information and evidence shared within the Inquiry process from other jurisdictions that have implemented this approach as part of a similar shift. It considers the significant and important elements based on the research of family-led decision-making for a shift to human-centred care. The research, evidence, and conclusions from the learning and understanding phase of the Inquiry detailed in Chapter 6 should serve as a resource to support and guide those across the system of care (Government and community) that will carry through the commitment to FLDM.

Family-led decision-making is not a process, but a way of working that is grounded in core principles. These core principles reflect the restorative principles underlying the restorative approach that, as explained in Chapter 6, is key to the shift to human-centred care. FLDM is sometimes mistaken for a process or practice because of the success of family group conferencing models internationally. Done well — that is, in support of an authentic shift in the structure and nature of the system of care — family group conferencing is reflective of a way of working that is committed to empowering families. Family group conferencing processes may be an important part of realizing FLDM. However, they cannot be the only expression of this commitment. FLDM should inform the way all decisions are made that involve the well-being or care of a young person, whether or not the decision is directly concerned with who will be responsible for taking care of a young person. It is, for

example, important with respect to decisions regarding schooling (including school-planning teams determining supports and programming for a young person in school), the approach to health care (as in the existing models of whole family care that reflect this approach), and to young people in conflict with the law and the justice system response (as is in the Nova Scotia Restorative Justice Program, which provides significant opportunity for the involvement of family — often as supports, but, when done well, as part of the decision-making function within a restorative process).

The parties within the Inquiry recognized the importance of maintaining momentum regarding the commitment for a system shift following the end of the Inquiry's mandate. It was agreed they should seek to trailblaze — learn while doing — in the sense of trying to work differently in real time and learning from these efforts. The commitment to trailblaze involves:

A) a shift to integrated and holistic human-centred approach to care — elements key to support the shift and FLDM include:

I. Legislative and policy framework

II. Shared outcomes framework

III. Mechanisms for integrated governance and services

IV. Information sharing norms and mechanisms

B) prototyping FLDM for families in collaboration with community.

4.2 Shift to integrated and holistic human-centred approach to care: key elements

I. Legislative and policy framework

FLDM, as part of the shift to human-centred care, requires a supportive legislative and policy framework. The planning and action phase identified two key elements of this framework.

i. Entitlement to FLDM — Legal and Policy Commitment

As discussed in Chapter 6, it is essential to re-orient systems to ensure that connection and involvement of family in the care of young people is protected as a right or entitlement. This has been shown to be important in terms of promoting and protecting changes in the system of care.

...it is essential to re-orient systems to ensure that connection and involvement of family in the care of young people is protected as a right or entitlement.

In support of FLDM, there should be a legal commitment to young people and families that the Government, through its system of care, will prioritize and strengthen family relationship and connection. This will have implications in terms of a commitment to ensure children grow up with or stay with families and kin before interfering or taking them into the care of the State. Systems would thereby be required to make

arrangements for children to live with family (including the wider family group) before action or intervention by the State is considered. Further, Government should guarantee young people and families that they will proactively support involvement of young people's families and care networks in decision-making about well-being across the system of care.

Such a legislative guarantee should be grounded in a clear commitment to a human-centred approach to care, including the commitment to build, support, and protect young people's fundamental family connections and the entitlement of family to participate in decision-making regarding the well-being and care of young people. The legislation should provide oversight and accountability mechanisms for implementation of this entitlement, including assessment against an agreed-upon shared outcomes framework for success (discussed below).

ii. Legislative and policy framework for child protection enabling meaningful use of FLDM at all stages of child protection system

FLDM will require a full review of the current Child and Family Services Act, given its significant role in framing decision-making with respect to children, youth, and families. The Act must be reviewed and adjusted as necessary, to ensure FLDM can be meaningfully accommodated within the current procedures and timelines. It will be important, for example, to consider whether time for FLDM processes can be accommodated once child protection proceedings have begun. The current Act (s.21) provides for time extensions for mediation in such circumstances; however, it is limited to three months. There is no such explicit extension provision for FLDM. Furthermore, the three-month time limit would be challenging for authentic engagement of FLDM at this stage of the process.

FLDM will require a full review of the current Child and Family Services Act, given its significant role in framing decision-making with respect to children, youth, and families. The Act must be reviewed and adjusted as necessary, to ensure FLDM can be meaningfully accommodated within the current procedures and timelines.

It is essential to ensure the legal and policy framework for assessing and managing risk can support "differential responses." There are two main reason young people come into care: abuse and behaviour. Risk is often treated the same in both cases. The policy and legislative framework must be able to differentiate those young people who need a plan that involves their wider family and professionals and systems to keep them safe and improve the circumstances around the family (those who are on the edge of care or at risk of coming into care), from cases of immediate risk of harm — abuse and neglect. In these latter cases, safety concerns need to be managed, addressed, and responded to in a way

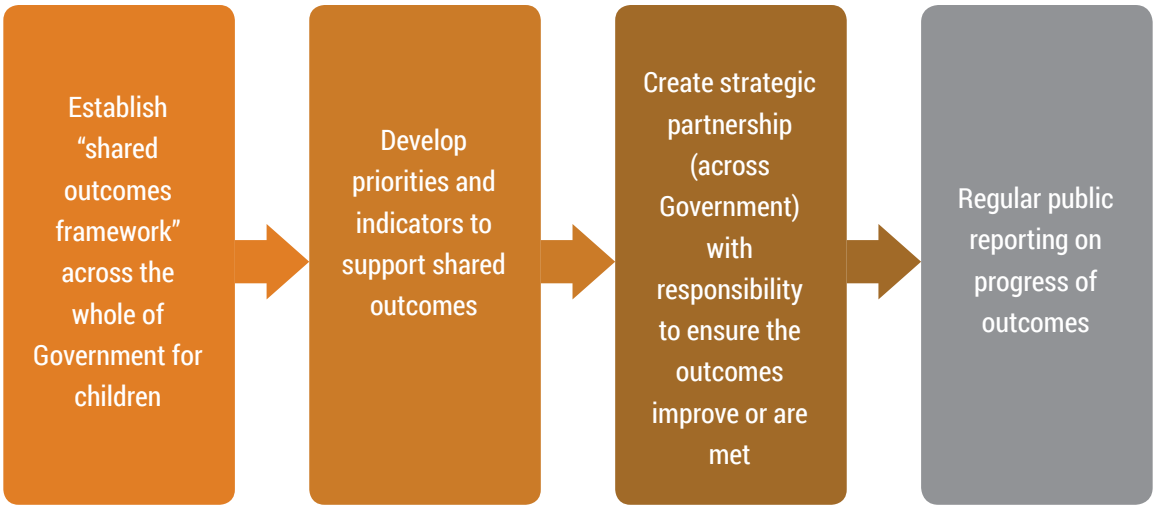
that balances, and is concerned with, the long-term needs and outcomes for well-being. The involvement of family is key in both cases, although the role of the State in setting the conditions for such planning may differ. There is a cohort of children on the edge of being taken into care of the State that need intensive family support — multi-agency response (with an FLDM model at the centre of this) and this may lead to kinship care and support arrangements, as needed, outside of the care system. Only where this fails, or there is actually no alternative, would the child come into the care of strangers through the system (so there should be more children in kin care than not).

The legislative and policy framework needs to support access to resources outside of the system. It will be essential to de-link support and services from the decision to bring a young person into the care system. It will also be important, in making the shift to a human-centred system in which families have a central role in determining what is needed for care, to ensure that court orders are not required to access services and supports. For example, young people outside of the formal care system should be able to access state support without needing to have it ordered by the court in conjunction with child protection proceedings. It will also be important in those cases where court proceedings are underway to ensure there is adequate information provided regarding family decision-making to courts. This might include clarifying that reports on the plans emerging from the family-led process will be provided and admissible to courts if and where necessary in support of the plans.

...young people outside of the formal care system should be able to access state support without needing to have it ordered by the court in conjunction with child protection proceedings.

It will be important, then, to consider mechanisms to share plans that result from FLDM in order to garner support or respect from the courts where proceedings are underway. However, there also needs to be consideration of the protections required to enable family to participate in decision making processes fully and without fear of legal consequences. For example, attention to the legal framework needed to support individual's involvement in restorative processes led the Inquiry to request a change to the *Public Inquiries* Act to address concerns with the use of information shared within the processes. In New Zealand, what is said within family decision-making processes is privileged and cannot be used as evidence before a court or other adjudicative process. A similar provision should be considered in Nova Scotia as part of the policy and legislative framework to support this way of working.

II. Shared Outcomes Framework



As discussed in detail in Chapter 6, FLDM and the broader shift to a human-centred system should be guided and assessed by outcomes for young people's well-being. It is important to be particularly clear that such outcomes are not aimed at measuring the difference in system deliverables. They recognize and reflect the rights and needs of young people and families. As such, the voice of children, young people, and families will be essential to determining these outcomes. They need to reflect what matters to young people and families. What does well-being mean to them? As Chapter 6 discusses, significant guidance on the development of such an outcomes framework can be found in the experiences of international jurisdictions.

...the voice of children, young people, and families will be essential to determining these outcomes. They need to reflect what matters to young people and families.

Responsibility for such outcomes must be shared across the system of care. The Government should establish accountabilities and priorities across the whole of Government (with particular emphasis on the system of care) based on these shared outcomes for young people. As outlined in Chapter 6, these shared outcomes should form the basis of an integrated strategic plan for the whole system of care as it pertains to the well-being of young people and families. Priorities and indicators in support of these shared outcomes should be developed (see, for example, the Leeds Plan reproduced in Chapter 6).

Responsibility for such outcomes must be shared across the system of care. The Government should establish accountabilities and priorities across the whole of Government (with particular emphasis on the system of care) based on these shared outcomes for young people.

This shared outcomes framework for children will inform the whole system of care for all young people. Oversight and implementation of such a framework will require a strategic Government/community partnership that looks across Government and community to ensure the outcomes improve or are met, and to report to ministers about the progress on the outcomes regularly.

III. Mechanisms for integrated governance and services

The Inquiry's tagline: *A Different Way Forward* - is a clear reminder of the importance of attention to the way in which this work was carried out and supported. Attention to the process and experience of the Inquiry offers insight into what it will take to continue to work in this way on these and other complex issues.

As discussed in Chapter 2, the Inquiry was governed and led collaboratively by Commissioners serving as a Council of Parties. The Council of Parties took a restorative approach to its work. This work was not without its challenges. In many ways, the Council had to learn how to work this way while it was fulfilling its mandate. This experience revealed two key things for the way ahead: building capacity to work differently is foundational; and importantly, you can engage in the process while building this capacity (the work need not wait until you know everything or have all the processes in place before acting).

Through the Inquiry, we have come to learn and understand that capacity building is necessary in terms of knowledge and skills, but also, significantly, in terms of structure, mechanisms, and resources. The Inquiry served to model and build some capacity for the work ahead. It is important that intention and attention be given to continue the capacity building necessary to support this work.

Building capacity for systems to work differently also means building capacity of those individuals within systems to work differently, and building mechanisms to support their capacity to work in integrated and holistic ways.

Changing structures, systems, and processes will be required to achieve the shift to human-centred care. However, it is essential to ensure support for those who have responsibilities to carry this work forward. The experience of the Inquiry has shown the importance of people to this work of change. We are mindful, as we have seen during the Inquiry, of the position of many dedicated professionals within our systems who must both carry out their daily duties while supporting change to these very systems. This is a daunting position to be in — and one that requires resourcing and significant care and support. The way forward will require a commitment to dedicate the resources needed to ensure support for the work, including the people doing the work and the mechanisms they need to be able to work differently.

As described in Chapter 6, during the Inquiry, parties shared the structural barriers to working in the integrated and holistic ways that need to be addressed in order to shift to a human-centred

system of care. Overcoming silos and fragmentation will require Government to establish mechanisms for integration and collaboration in order to sustain the momentum needed to fulfil the actions, plans, and commitments coming out of the Inquiry.

As discussed in Chapter 2, the Inquiry was designed mindful of the need to facilitate comprehensive and holistic Government collaboration in the restorative process. The Reflection and Action Task Group played a key role assuring Government's capacity for participation and engagement in this collaborative work. The Reflection and Action Task Group provided a mechanism to develop shared understanding and collective responsibility related to the mandate of the Inquiry. It built capacity at the leadership level — among and across deputy ministers — in the work of the Inquiry. There was a significant level of engagement and commitment with the Inquiry at this level. The challenge during the time period of the Inquiry was to ensure this understanding, engagement, and commitment was shared within and across Government departments and agencies. This required significant effort and work to support and facilitate collaboration within and across the silos in Government. The challenge was not reflective of a lack of willingness. The Inquiry experience revealed a significant recognition among those within systems of the importance of having the facilitated opportunity to think and work together in this different way. Participants also clearly indicated they needed to be supported to work in this way in future to change current structures and systems.

...it is clear that commitment to a system shift requires the development of mechanisms both internal and external to Government to build and support the capacity to work restoratively — in principle-based, integrated, holistic, and collaborative ways. such a mechanism is essential to bring the holistic lens required to reveal and address systemic racism.

Through the facilitative and convening role of the Council of Parties, the Inquiry was able to fulfil this role during its mandate. Indeed, this was one of the ways in which the Inquiry supported action in real time — through its different way of working. It is essential that attention be paid to how to support working in this way going forward now that the Inquiry is no longer playing this role.

There is a lesson in the experience of the Inquiry about the importance of both internal and external mechanisms to facilitate the connections required to work in integrative, holistic, and collaborative ways. The Children and Youth Commission discussed later in this Chapter may offer some support and opportunity for working this way in the context of care. However, there is a need to ensure broader and ongoing capacity for shifted ways of working in the future.

Based on the experience of the Inquiry and the learning and understanding developed with parties within the Inquiry, it is clear that commitment to a system shift requires the development of mechanisms both internal and external to Government to build and support the capacity to work restoratively — in principle-based, integrated, holistic, and collaborative ways. It has also

become clear, through the work of the Inquiry, that such a mechanism is essential to bring the holistic lens required to reveal and address systemic racism.

Internally, the Government must consider how (including *where*) to establish a mechanism to support such work across Government. Ultimately, this capacity for integrated work across Government is essential for partnership and collaboration with the community. This mechanism will require support and oversight from the highest level of Government in order to ensure the permission and protection required for the shift in the system and ways of working. This support was essential for the Inquiry to engage with Government in a different way.

Such a mechanism must be empowered to do more than coordinate existing systems, policies, and programs. It must be aimed at facilitating integrated collaboration of systems, policies, and programs. This will require significant change in support of the shift to human-centred systems. The mechanism is needed to steward the shift to be human-centred. This will require active engagement in the work as well as the support through facilitating, convening, coaching, and oversight.

It will be important to identify existing knowledge and capacity for working this way that currently rests within departmental silos and to ensure these are linked up to enable integrated and collaborative work, or to reposition such resources to enable support for a cross-governmental integrative approach. One such example of existing capacity and knowledge is the restorative initiatives unit in the Department of Justice. In support of the work ahead, Government must consider how to ensure a similar investment of knowledge and support is available broadly across Government.

For this shift to be successful, it is also essential to ensure expertise and support from outside of Government.

For this shift to be successful, it is also essential to ensure expertise and support from outside of Government. The independent role contemplated for the Children and Youth Commission (discussed later in this chapter) will enable a facilitative and convening role similar to that played by the Inquiry. This support is essential for building and supporting capacity for system change. It will also be important to engage with experts outside of Government systems in order to continue to build and support capacity for learning, understanding, action, and innovation.

IV. Information sharing norms and mechanisms

As discussed in Chapter 6, silos are often constructed and maintained in relation to information. Participants in the Inquiry regularly identified barriers to sharing information as a significant problem to working in integrated and holistic ways. Such barriers were real and perceived. They were erected by law, policy, and a culture of a lack of trust across systems and sectors.

FLDM as reflective of the shift to a human-centred approach, will require significant attention to developing norms (legal and cultural) about information sharing that support an integrated and holistic approach. Information sharing between the system of care and family is important. Families need and are entitled to information about what has happened to or is happening with their young people in order to play their role in decision-making. Information sharing is equally important among systems and agencies if they are to be able to work in an integrated way to support FLDM.

FLDM as reflective of the shift to a human-centred approach, will require significant attention to developing norms (legal and cultural) about information sharing that support an integrated and holistic approach.

During the Inquiry process, privacy experts from Government and the private sector supported the planning and action on this issue. There was significant agreement that sharing information in order to support young people and families, particularly in the context of a human-centred approach that involved those whose information and interests are at stake, is consistent with the intentions of current legislation. However, there was also general agreement that the current legislation lacks clarity regarding how personal information is shared sometimes, and this impairs appropriate information sharing. While there are existing processes through which such sharing could be approved or allowed, they are sometimes cumbersome and can contribute to a protectionist culture with respect to information.

There was agreement that clearer language in the *Freedom of Information and Protection of Privacy Act* (as well as other relevant legislation) would be helpful. An amendment to the Act to specifically allow departments (or organizations or agencies) to share personal information for the purpose of implementing new programs or approaches to delivering services, such as FLDM or other social programs, would be advisable.

There was agreement that clearer language in the *Freedom of Information and Protection of Privacy Act* (as well as other relevant legislation) would be helpful. An amendment to the Act to specifically allow departments (or organizations or agencies) to share personal information for the purpose of implementing new programs or approaches to delivering services, such as FLDM or other social programs, would be advisable. Such a legislative change should be accompanied by regulations and policy changes to ensure oversight so the information is shared and used for purposes consistent with a human-centred approach to care.

Recognizing that legislative change can take time, the Chief Information Access and Privacy Officer committed to develop a Practice Bulletin aimed at clarifying current law and policy. This would provide immediate support to shift the system and to prototype FLDM practices. It will include current criteria on how to share personal information, including disclosure of such information in the public interest.

We have come to understand, through the Inquiry, the pervasive impact of culture on the willingness to share information despite the legal authority to do so. This issue of culture will require attention through the mechanisms for integrated governance and services (discussed above). The introduction of a shared outcome framework will both rely upon, and support, a change in culture with respect to information sharing. It will establish shared responsibility for outcomes that will require greater transparency and communication with respect to young people and families to support and report on outcomes.

We have come to understand, through the Inquiry, the pervasive impact of culture on the willingness to share information despite the legal authority to do so.

4.3 Trailblazing and Prototyping: Implications of Family-Led Decision-Making in Community

Family-led decision-making then is about a system shift to be human-centred rather than the current system-oriented approach to care. This shift will have implications across the operations of the system of care. The shift should make a meaningful difference at the ground level in the experience of care for young people, families, and communities. It will result in:

- a commitment to bringing families together, empowering families, helping families care for children and to be part of planning and making determinations for and with their children.
- changes in power dynamics regarding who makes decisions for young people: families solving their own problems; making their own plans.
- supports for families' solutions not dictated by existing services and program options or solutions, enabling more creative plans that leverage relationships and other connections.
- resources tailored and provided in support of families' plans.
- changes in the focus of relationship: young people and families not involved as "clients" — focus on family relationship (who they are to each other) and what the system is to them (what they need from the system of care).
- decisions defined not by system needs but by family needs (i.e. not about "in care" or "out of care").
- broader understanding of care: recognition that young people are not only in need of "care" when they need protection from caregivers. Care and need require more than protection.

Re-orienting the system to be human-centred and family-led will change the role of the system and community in supporting families.

Re-orienting the system to be human-centred and family-led will change the role of the system and community in supporting families. For example, supporting FLDM will demand a broader range of knowledge and skills to find, convene, and support family empowerment. This will rely on supports that are (or can be) trusted by family, that are culturally responsive and knowledgeable about family and community. This will mean resourcing community-based coordinators, family-finding services, and kinship care supports, etc.

Through the Inquiry, we have identified some key lessons/elements (as discussed in Chapter 6) needed to support FLDM as part of the larger shift to human-centred care. It is key to recognize the importance of the following:

- Fidelity to key principles
- Focusing not only on implementing new ways but on de-implementing old ways of doing things.
- Taking a trailblaze/prototype approach to incremental implementation. Action-based learning with a clear commitment to scaling up, allowing for trial and error (fail fast, learn and try again); Resilience in the face of difficulties or challenges making the shift.
- Forging and maintaining real partnership and collaboration with young people, families, and community
- Integrating and collaborating across systems, agencies, and services.
- Identifying and nurturing/supporting change leaders at all levels.
- Measuring quality and outcomes (for young people and families) — capturing and sharing stories of success and failure.
- Developing a legislative framework that establishes entitlement for young people and families, and new accountabilities and priorities for shared outcomes across the whole of Government for young people in relation to the system of care.
- Information sharing — among and across Government and community child-caring systems, services, agencies, and organizations, as well as families.
- Implementing mechanisms for integrated governance and service delivery.
- Supporting resources to find and convene family (wider family network).

During the planning and action phase of the Inquiry, partners from Government and the community came together to begin to plan for implementation of a prototype to support FLDM with respect to care. The idea of prototyping is not to establish a single model to be replicated, but to work together to model how FLDM can work in order to learn what is required for success.

...prototyping must be an integrated part of the system shift. It cannot be pursued separately from the elements of the system shift discussed above. In fact, the prototype is intended to test and reflect system shifts.

To be clear, such prototyping must be an integrated part of the system shift. It cannot be pursued separately from the elements of the system shift discussed above. In fact, the prototype is intended to test and reflect system shifts.

This does not mean the system shift must be completed before prototyping can begin. It means prototyping must be approached as part of, and in support of, blazing a trail of system transformation. Careful attention must be paid to ensure prototyping does not become a pilot project divorced from the system shift it is intended to feed and inform. It is also key to recognize that the Inquiry is not suggesting a pilot to determine whether FLDM should be implemented, but, rather, to test how and *whether* the system has shifted sufficiently to make a difference to the experience of care. Prototyping is about learning and improving to consider important elements to scale up the approach across the province and throughout the system of care. To that end, the approach is intended to blaze a trail that can be followed in the future — to learn while doing.

Careful attention must be paid to ensure prototyping does not become a pilot project divorced from the system shift it is intended to feed and inform.

As discussed in Chapter 6, family-led decision-making is not a strategic approach to achieve system outcomes. It is not a mechanism to merely get things right, but rather is fundamentally concerned with doing the right thing by young people and their families. It is grounded in an understanding of the needs and rights of young people and the centrality of family connections to their well-being and success.

...family-led decision-making is not a strategic approach to achieve system outcomes. It is not a mechanism to merely get things right, but rather is fundamentally concerned with doing the right thing by young people and their families.

This means the purpose of prototyping is not to assess whether family-led decision- making should be continued. It is to determine what is needed to support the rights and entitlements of young people to meaningful connection with family (a network of caring relationships).

It is essential to understand this work through that lens. The prototype is focused not only on the implementation of family-led decision-making, but also on securing the changes needed within the existing system of care to support its success. As such, prototyping a model of FLDM in one community should be reflective of, and a catalyst for, larger system changes required to scale up FLDM throughout the system of care.

It is essential that the prototyping be undertaken as an integrated part of the system shift to human-centred care and, as such, that it pay particular attention to this different way of working rather than merely delivering a different practice model.

The commitment the parties made within the Restorative Inquiry process is to family-led decision-making as a core element of a human-centred approach to care. Government and community partners have worked together during the Inquiry's mandate to explore the potential to prototype FLDM as part of the system shift to human-centred care.

The deputy ministers on the Reflection and Action Task Group have committed to trailblaze the system shift required for FLDM and to prototype a model of FLDM within the community as part of this trailblaze before the final report from the Reflection and Action Task Group in 2020.

It is essential that the prototyping be undertaken as an integrated part of the system shift to human-centred care and, as such, that it pay particular attention to this different way of working rather than merely delivering a different practice model. To this end, through the Inquiry, it has been determined that prototyping should involve certain key elements:

- It should start in an African Nova Scotian community. This reflects the focus of the Inquiry on the experience of care with particular attention to the context and impacts of systemic racism. As discussed in Chapters 5 & 6, the current system-centred approach contributes to the maintenance of systemic racism and amplifies its effects. Shifting to a human-centred approach and empowering families and community to articulate what is needed for the care and well-being of young people is a significant counter to the effects of systemic and institutional racism and brings change to those systems. During the Inquiry, we learned from Mi'kmaw leaders involved with Mi'kmaw Family and Children's Services about their experience of the importance and significance of this approach to child welfare in addressing similar issues of systemic racism.

  The prototype will be undertaken with a view to designing a model attentive to the culture and needs of the African Nova Scotian community. The initial community site will provide support for other African Nova Scotian communities to adopt and adapt the resulting model and approach for their communities.

  The commitment to FLDM is not limited to African Nova Scotian young people, families, and communities. The commitment is to bring FLDM to the entire system of care as a key aspect of the shift to a human-centred system. It was felt to be important and advantageous to prototype within a largely African Nova Scotian community because it will ensure necessary attention to issues of systemic inequality, marginalization, and cultural context essential to the success of FLDM for all young people and families in Nova Scotia.

Prototyping is to be implemented *within* a community rather than with respect to a particular entry point, or system decision-making point, or part of the system of care. The choice to prototype in a community area focuses attention on relationship to place, people, and culture, not to the system. Building FLDM in response to the care needs of young people and families in a community will ensure attention to the integrated nature of care viewed from a human-centred perspective.

Designing FLDM in response to the needs of young people and families places them at the centre of care and planning, whatever the issue or wherever it arises. This is less likely to be the case if FLDM is implemented within a particular silo of the system of care or at one stage in the care system, or led by one part of the current system of care. As we have learned through the Inquiry, such a system-oriented approach would fragment the experiences and needs of young people and families according to the silos and structures of the systems. For example, if the prototype is to reflect and contribute to a system shift, it cannot be focused on supporting families to contribute or participate in current child protection processes or be under the auspices or jurisdiction of child protection.

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Focusing a prototype on young people and families within a particular community resists system control. It requires identification and building of relationships across the system actors and stakeholders within that community, oriented by the needs and plans of young people and their families. As such, the prototype needs to be approached explicitly as a concrete way to test and support integration of systems and services. For example, the FLDM prototype should engage care system stakeholders connected to a community, including school principals and student supports, family doctors and mental health providers, income support officers, disability services, housing supports and social workers. The same collaboration will be important across community-based organizations and programs, for example boys and girls clubs, the local library, the Federation of Foster Families of Nova Scotia, Elizabeth Fry and John Howard societies, restorative justice agency, after-school tutoring supports, churches, daycares, and family resource centres.

It is clear that FLDM will require more than service coordination or navigation. Current efforts to co-locate services may serve as a useful starting point to shift to greater integration, but the shift to integrated and holistic care will require much more.

It is helpful and important to prototype in a community with a strong sense of its culture and the dynamics of its families. FLDM relies on community level resources and capacity to understand and find family connections and support their coming together in meaningful ways to make decisions.

- It is essential that the prototyping of FLDM be designed, governed, and implemented collaboratively between Government and community. As discussed in Chapter 6, such collaboration requires shared authority and responsibility. It requires more than traditional models of community "consultation" led by Government. The shift to human-centred care will require genuine partnership between Government and community. This will require the development of mechanisms for collaborative decision-making in design and ongoing governance.

- Prototyping must be based on a shared outcomes framework. As described in Chapter 6, this must be developed and determined with a central voice for young people, families, and community. It must be focused on outcomes for children, young people and their families not systems.

Prototyping FLDM must also attend to the significance of shifting the approach in all aspects of the care system with respect to preventative and proactive support for the well-being of children and youth already within the care of the State.

- In prototyping, priority may first be given to the application of FLDM to situations where the system is (or is more likely) intervening because of assessed risk to a young person. This is consistent with the recommendation that there should be a legal entitlement to FLDM in such circumstances. The prototype should be designed to ensure response to situations where a young person is what is sometimes referenced as "on the edge of care," or where a determination has been made that a young person requires a change in their care arrangement (including potential removal from their parent).

- The priority (entitlement) for FLDM in circumstances where the State may interfere in the provision of care should not limit the development of the FLDM prototype to these circumstances. Prototyping FLDM must also attend to the significance of shifting the approach in all aspects of the care system with respect to preventative and proactive support for the well-being of children and youth already within the care of the State. =

- FLDM should be incorporated into decision-making processes in various parts of the system of care (education, health, housing, justice, etc.). FLDM processes should not be reserved only for use in relation to the child protection system. It is important to recognize that being preventative and proactive about securing and supporting the well-being and care for young people will require involvement and engagement of family in meaningful ways wherever the system of care makes plans for the care of young people. The need to support families to play a central role in care planning is relevant for all parts of the system of care within State- or community-based agencies, services, or programs.

As the history of the Home shows, particularly in communities that do not have trust in authorities and systems, the need for care will often be revealed to trusted community

members or institutions. Many children came to the Home through family or community and not through the formal child protection processes. They were no less in need of care and support. In designing the FLDM prototype, then its use must not be linked only to current child protection processes.

- As discussed in Chapter 6, FLDM will require adjusting the understanding and assessment of risk. Clarity will be needed in terms of how risk is managed and dealt with in the system. The role and work of responding to risk cannot dictate or consume the entire focus of the FLDM or it will fail to respond to the full needs of children and families.

4.4 Integrated Court Processes (Multiple Proceedings) – A Restorative Approach

As described in Chapter 6, through the learning and understanding phase of the Inquiry it became clear that another barrier to integrated care is the fragmentation resulting from the siloed nature of our court system. Matters related to care of young people (either directly about the young person or the issues resulting in the need for a care plan) can be subject to multiple proceedings in different courts. For example, a situation of family breakdown affecting the care of a young person can result in any or all of the following proceedings: criminal proceedings (including youth criminal charges; adult criminal charges, including domestic violence), family law matters (custody and access, emergency protection orders) child protection matters, and, in some cases (although fewer instances), civil matters. These matters are dealt with by different courts owing to the structure of the court system in Canada. This means that different courts have jurisdiction over different matters. Further, it is not possible to combine matters before a single court because the judges are appointed by different levels of Government and do not have the authority to decide matters within the jurisdiction of another court.

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In Nova Scotia, criminal matters are dealt with by the Nova Scotia Provincial Court and the Supreme Court, depending on jurisdiction over the matter. Nova Scotia also has a number of specialized (problem-solving courts) at the provincial level that deal with criminal matters, including Youth Justice Court, Domestic Violence Court, Drug Treatment Court, Mental Health Court, and Wellness Court. Family matters are also currently divided between Provincial and Supreme Courts depending on where one resides in the province. For example, in Cape Breton and Halifax, family matters (including child protection) are dealt with at the Supreme Court — Family Division. Elsewhere in the province, family matters (except divorce) are dealt with by the Family Court.

These divisions can result in multiple proceedings for young people and families in need of care. This can have a significantly negative impact on the lives of young people and families in need of care. It can place significant pressures and stress on families as they have to navigate multiple processes, often without adequate support to ensure easy access to justice.[1] During the Inquiry, we heard about the confusion of young people in care who had come into conflict with the law during their time in care (youth criminal justice charges) while also being subject to child protection proceedings, and could not understand why the legal aid lawyer representing them in Youth Justice Court could not help them the next day in the child protection hearing. Similarly, we heard how the same parent can be subject to multiple orders (sometimes conflicting) that make it difficult to meet the requirements of supervised visitation, for example. Stakeholders from across the justice and child protection systems shared that often those appearing before the courts are unclear about the orders or undertakings they are subject to. We also learned about the intersection of criminal justice and child protection when young people are taken into care because their parent is remanded awaiting trial or has been sentenced to custody.

This fragmentation and complexity undermines the integrated and holistic approach needed for human-centred care. While it may not be possible to integrate the court system, it is possible to provide opportunities for integrated case conferencing processes to deal with multiple proceedings at the same time. The application of a restorative approach and FLDM offer helpful models for collaborative case management and settlement conferences that would support a more integrative and holistic approach in such circumstances.

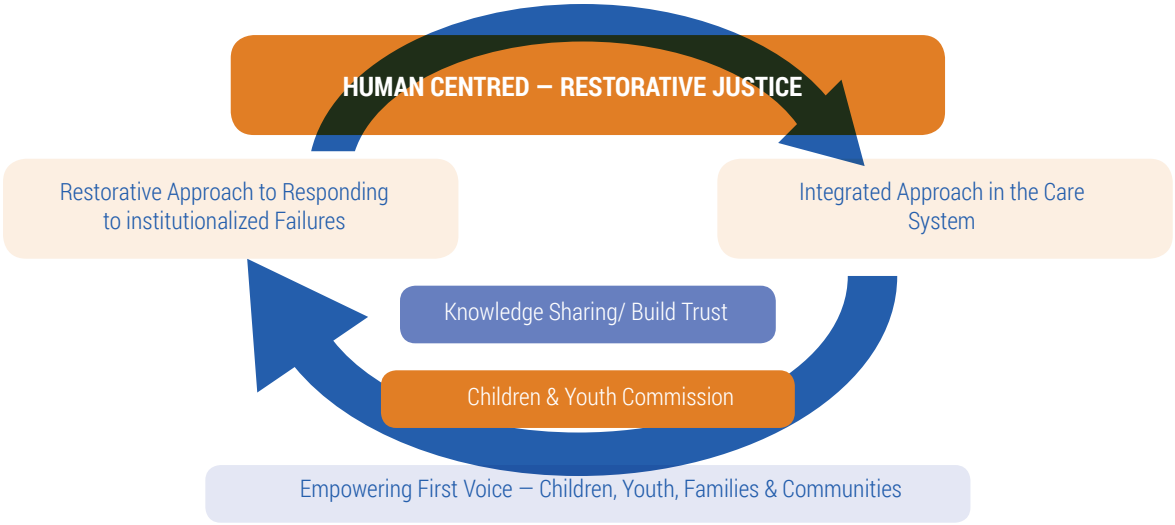
This fragmentation and complexity undermines the integrated and holistic approach needed for human-centred care. While it may not be possible to integrate the court system, it is possible to provide opportunities for integrated case conferencing processes to deal with multiple proceedings at the same time. The application of a restorative approach and FLDM offer helpful models for collaborative case management and settlement conferences that would support a more integrative and holistic approach in such circumstances.

The planning and action phase of the Inquiry brought together justice-system and community-based stakeholders to consider this issue and potential pathways forward. There was a shared commitment to working collaboratively to address the issue. The initiative has the support of the Departments of Justice and Community Services. The Nova Scotia Advisory Council on the Status of Women, in conjunction with the Standing Together to Prevent Domestic Violence initiative and the Domestic Violence Court Committee, are positioned to provide leadership support to design and pilot a collaborative cross-court and cross-jurisdictional initiative to support a restorative approach and family-led decision-making in cases at the intersection of child protection, family law, and criminal law. This initiative will explore and implement an integrated court process model to ensure the best interests of young people and their families are considered in the complex intersections between court orders from different levels of courts, and to ensure families are at the centre, and supported, through decision-making processes.

5. Children and Youth Commission

The Restorative Inquiry has demonstrated the potential of a restorative approach to inquiry and action to support a shift to human-centred systems. It has become clear that it is important to the success of the journey forward to have a mechanism or entity that can continue to play the role the Inquiry has — an independent body able to facilitate relationship building, learning and understanding, and planning and action. This is important both to support a human-centred, integrated, holistic approach to care and a restorative approach to responding to failures of care in ways that can ensure learning and understanding to improve future care. Based on the interest and commitment of parties within the Inquiry, it is recommended that an independent Children and Youth Commission be designed and established to fulfill this role.

The name Children and Youth Commission intentionally avoids use of the term "advocate" (as is used elsewhere). There have been significant and sustained calls to establish a Child and Youth Advocate in Nova Scotia in recent years. Yet these calls are not new in this Province. The Task Force on Children with Special Needs in 1973 commented on similar calls and made a recommendation that the Government consider the possibility of a Commission for Child Advocacy. The report traces its roots to the same developments in child welfare that influenced the founding and operation of the Home.[2]



Although we are in no way attempting to assess the wisdom. Or lack of wisdom, of including a child advocacy program as part of our overall program of services to children, the Task Force views child advocacy as a symptom of social change noteworthy of comment.

During the latter part of the nineteenth century and early in the twentieth century, associations such as the Society for the Prevention of Cruelty to Animals and Children were expressing their concern for the plight of children in need. Their leaders spoke eloquently on behalf of the rights of children and fought to provide justice for them. They were, essentially, the, child advocates.

It is from these auspicious beginnings that our present child welfare agencies have evolved. Today an implicit part of their mandate is still the responsibility for "the protection of children from cruelty and the care and custody of children in need of protection and delinquent children."

For many years they fulfilled this inherent part of their functioning in the role of advocates for children in need. In the intervening years, the focus of our child caring agencies has changed from solely defending the rights of children to preserving the well-being of the family unit.

Because of the interest and concern which has been generated in regard to child advocacy in recent years, Columbia University has completed a comprehensive study on the subject. The comments which follow are excepts from that report and clarify, to some extent, the nature of the child advocacy movement at this time.

The key factor that defines child advocacy is the concept that individual children or parents, categories of children and parents, or all children and parents, have specific rights and needs, and that prevailing circumstances require that they be given support to assure their access to entitlements, benefits and services. Child advocacy is, therefore, intervention on behalf of children in relation to those services and institutions that impinge on their lives. It has developed to correct serious inequalities and deficiencies in policies and programs for children. Any function, process, method of structure may be the target of advocacy at some time, and the action may include help, support, suggestion, education, demands, confrontations, and legal action.

Child advocacy is based on the premise that society has an obligation parallel to that of parents, i.e. to provide adequately for children's welfare. Since social services are sometimes unresponsive to children's needs, they too, may need systemic monitoring. Whereas child welfare agencies and child protective services seek children's welfare by intervening in the parent-child relationships or by substituting for it, child advocacy interviews into the larger social environment and those institutions affecting children's lives.

Task Force on Children with Special Needs (1973)

The report continues, explaining that the focus of such advocacy is typically on specific cases, but that there are, increasingly, other advocacy roles to be taken up on a more regularized basis aimed at review and oversight of systems and programs.

Much in the nature of the child advocacy movement remains the same some 45 years on. As discussed below, much of what is described in terms of the need and role for advocacy is reflected in the purpose and function of the Children and Youth Commission recommended here. Indeed, the need for advocacy in terms of attending to and caring about the rights and needs of children and families underpins the Children and Youth Commission as it is envisioned here.

Why, then, not join those who propose an Advocate? There are several reasons we have not taken this approach. First, the nature and the approach of the child advocacy movement has changed somewhat since the task force report in 1973. It has changed alongside developments in care systems as detailed in Chapter 6 that are increasingly siloed, adversarial, and concerned with risk- and blame-based accountability mechanisms. In this context, advocacy has often taken up an adversarial blame-based approach to accountability as well. Advocacy has also been undertaken in other systems and provinces on behalf of, or representing the interests of, children often separate from, or adverse to, those of their families or the State. This is not to say that children and youth do not sometimes need support, or that their interests are always aligned with their parents or caregivers. However, as the Inquiry has shown, the relational nature of young people and families make the protection of rights and interests much more complex than a simple adversarial individualized approach can manage. It requires processes that can work with complexity to understand and support the mutuality and interconnection of interests that mark the relationship between children and families and work to ensure it is just and safe.

The shift to a human-centred approach also cannot be achieved through a mechanism that is designed to speak to systems *for* children and youth, rather than create space for and amplify their own voices. It is noteworthy that many advocates have recently made significant investments in centering the voice of children and youth in their work.

The idea of advocacy then evokes the adversarial, individualized, approach familiar in the current system-centred approach. Clearly, it need not be this way. The term could, of course, be rehabilitated to accord with a vision of advocacy that is in line with the relational and restorative principles at the core of the human-centred approach we seek. However, it is difficult to shift understanding and expectations using words so connected to old ways of thinking and working. For this reason, we have found the title Children and Youth Commission helpful.

It is also significant that we have opted to use the term “Commission” and not “commissioner.” This is because we feel that what is needed is a body capable of facilitating relationship building, learning and understanding, and planning and action. We do not envision an individual doing these things alone, but, rather, a mechanism that can support all those with interests, responsibilities, or a stake in the outcome to be engaged and involved in this work.

The vision of a Children and Youth Commission that has developed through the Inquiry would:

- model and facilitate a "different way of working"
- be proactive/responsive, not only reactive or complaint driven
- serve as a mechanism to support integration and collaboration across the system of care
- monitor and ensure respect for young people's entitlement to relationship with family
- play an essential role in oversight and accountability for a shared outcomes framework; assess how children & youth are doing against the shared outcomes framework
- centre and amplify first voice

In doing these things, the Children and Youth Commission would take a different approach reflective of the shift to human-centred care. The Commission would be human-centred not system-centred. It would not be concerned only with advocating within the existing system, nor with merely "navigating" current systems. The Commission would be designed to work in collaborative ways "with" children, youth, and their families, as well as with the system of care (Government and community based). The Commission would not be oriented to doing things "to" or "for" young people, families, communities, or system stakeholders. In this respect, the Commission would be collaborative and not adversarial in its model of advocacy. The Commission would not frame its work through an individual rights protection framework, but rather would understand and seek to promote and protect rights in a relational way (not as against others, but as structuring the terms and conditions of relationship with others).

The Children and Youth Commission would have the following features and functions:

- Independence — Capable of facilitating and supporting change within a Government and community-based system of care.
- Take a restorative approach to its work.
- Build and support relationships with and within the care system to meet the needs of children and youth.
- Support response to institutional failures of care and work proactively and preventatively to support a better care system.
- Engage, empower, and amplify the first voice of children and youth.
- Support and assess progress toward shared outcomes for children and youth in Nova Scotia (with particular focus on children and youth in care, on the edge of care, or marginalized).

Following the model of the Restorative Inquiry, the Children and Youth Commission will be committed to:

Activities of the Commission would include:

- Hear and facilitate response to concerns or issues raised by children, young people or their families, or communities of care. This work would be approached restoratively — aimed at understanding what happened, the impacts, and what matters about what happened for moving forward to addressing needs and improving experiences and outcomes for children and youth. In doing this work, care will be taken to work in collaborative and non-adversarial ways among parties and with the system of care.
- Support problem solving or system change. The Commission would convene and facilitate processes involving those with a stake, interest, or responsibility for the outcome of a situation to work together to understand and address situations and determine what needs to happen at the individual case and system levels.
- Support, assist and advise children and youth to understand, discern, articulate, and advance their needs and rights with respect to care and the care system.
- Encourage and mobilize research and knowledge in Nova Scotia in support of its mandate and work.
- Support education and facilitate the development of law, policy, and practice to meet the care needs of children and youth.
- Support access to justice for children and youth through a restorative human-centred approach to responding to failures of care, including restorative inquiries into individual and systemic issues/problems and support for conflict resolution.

During the planning and action phase of work, the Inquiry held several processes among parties from community and Government to consider the approach and model of a Commission. The parties expressed significant interest in pursuing this approach and a commitment to work together to design such a body. The Reflection and Action Task Group that has supported Government's participation in the work of the Inquiry indicated Government's commitment to the idea and approach of a Children and Youth Commission. They have agreed to work collaboratively with community stakeholders to develop a model and a plan for its implementation.

6. Restorative Responses to Failures of Care

6.1 Police Response to Institutional Abuse and Failures of Care

As discussed in Chapter 6, police participants in the Inquiry recognized the impact of adversarial processes (and their role within it) on victims — both as witnesses and complainants. They acknowledged how difficult it is to find ways within the roles they play to attend to the needs of those who have experienced trauma and harm. They identified the ways in which they are constrained from working differently by the system as it currently exists. These insights are instructive — while police practices have evolved, including the incorporation of trauma-informed understanding into investigation approach and techniques, they acknowledged there is still much work to be done in this area. During the Inquiry, police were clearly committed to support learning and change on this front. The RCMP also shared there have been significant changes to the way files are handled ever since their role in response to complaints regarding the Home. These changes have been aimed at ensuring better tracking and accountability. They recognized more needs to be done to place human beings at the centre of their approach to handling case files, information, and investigations.

Police also identified that the siloed and fragmented culture of system responses continues to make it difficult for the care and protection of children to be a shared responsibility. There remain significant barriers to sharing information or stepping outside operational or jurisdictional boundaries to assess whether there is cause for concern and response. Participants acknowledged that the barriers are not always structural — there are cultural (organizational) issues that get in the way, including trust between and among professionals working in different systems. There is also often an assumption that other systems or professionals will take care of issues and situations if they appear to be on the edge or beyond the direct responsibility of police. There are also real structural impediments to responding in more integrated ways, including lack of mechanisms for integrative work, including mechanisms to develop shared understanding, common frameworks, and to share information.

Police were then cognizant of their role in the current system, and open to considering how that role may look in a less adversarial process and as part of the shift contemplated to a

human-centred approach. As holders of information emanating from criminal investigations (whether evidence exists to proceed to charge and trial or not), consideration needs to be given to the creation of (or awareness of existing) mechanisms that would allow information to be shared with system partners who have shared/collective responsibility for the care and well-being of children more generally. Sharing information in this way would support review/examination/sharing of the context, conditions, and circumstances that gave rise to complaints/investigations.

As part of the movement to support a system shift, consideration should be given to how specific aspects of law enforcement are connected to the broader work of system integration. This will include (but is not limited to) consideration of how to share important information gathered through investigations (irrespective of outcome of investigation) that impacts how systems provide care and support to children/young people. This will require more than a shift in police investigative practice within individual police agencies. As stated earlier, the shift requires a change in understanding and approach of the role of police and to the systems that structure it. This will include, for example, ongoing work to embed trauma-informed understanding in all aspects of policing and to orient policing in more human-centred ways. Merely focusing on training initiatives will be insufficient to bring about this shift. Attention is needed to consider how to intentionally connect and integrate information and services essential to this different way forward.

As stated earlier in chapter 6, how we respond to abuse/harm directly impacts how our current system of care operates, so it will be important that all aspects of knowledge and understanding are integrated in how the system provides care. This information cannot remain isolated or siloed within only one area of the system. The broader (and necessary) work around information sharing as part of the system shift will require a mechanism to support this shift across policing agencies and together with other aspects of the system of care. Consideration should be given to the potential role of the Department of Justice (policing services) to broker learning opportunities (by convening and facilitating) aimed at exploring the structural conditions and mechanisms that would enable, promote, and improve the ability of police agencies to share pertinent information related to completed investigations of institutionalized abuse (failure of care) proactively with the relevant parties as part of the accountability of the overall system of care.

6.2 Guidelines for Government Restorative Response to Institutional Failures of Care

During the Inquiry, parties recognized the significance of a restorative approach for former residents, particularly when compared with their difficult and harmful experience seeking justice through the civil justice system as detailed in Chapter 4. Parties identified the importance of shifting responses to failures in the system of care as described in Chapters 5 and 6. The

learning and understanding within the Inquiry mirrored the views of the Law Commission of Canada in its 1998 response to the Minister's Reference on Institutional Child Abuse. The Law Commission concluded:

> If we rely on the piecemeal, case by case, reactive and largely adversarial approaches to redress which have been primarily used to date, it is likely to be a long, painful and expensive journey, both emotionally and financially, before the issue of past institutional child abuse is resolved. This journey will teach us few lessons about how to prevent, recognize and redress any abuse that our children may now be suffering in settings such as foster homes and organized sports programs. Starting anew, with a more comprehensive approach focussed on survivors and sensitive to their individual needs would demonstrate that, as a society, we are not afraid to face up to the legacy of institutional child abuse. It would signal that we are willing, at last, to respond to the voices we have failed to hear for so long.[3]

Parties within the Inquiry considered how to support such a shift and create the conditions for a different response to cases like the former residents and others dealing with harms related to failures of the system of care.

It was recognized that this shift would require a change in the way in which decision-makers and justice stakeholders (including, but not limited to, legal counsel) understand and approach such claims. It will require a move from a narrow risk and liability framework to a human-centred approach as described in Chapter 6. This shift requires more, however, than changing perspectives of individuals. It needs to be supported at a systemic and cultural level. One of the catalysts for such a shift is to require consideration of a different way — a restorative approach — as part of the process by which decision makers in Government deliberate and give instructions in such cases. It is also important that those who provide advice to inform and assist decision makers take this approach in their consideration of cases.

Nova Scotia has experience in supporting this sort of culture and practice shift in the justice system. For example, the Nova Scotia Restorative Justice Program from its beginning in 2001 until the recent release of new protocols, included a check list to inform exercise of police discretion in deciding to lay a charge or refer a young person to restorative justice. The new protocols for the expanded youth and adult restorative justice program require stakeholders in the criminal justice system to consider restorative justice as an option at all stages in the criminal justice process.[4] Further, police and the Crown are required to demonstrate their consideration by articulating the reason(s) they did not take a restorative approach in a given case. These protocols encourage and support a shift in ways of thinking and operating within the criminal justice system. They expand the range of consideration and information decision makers consider when determining how to proceed with a case.

A similar shift is sought in system decision making with respect to civil claims about system-related failures of care. One way to support a shift in responses to such failures of care is to provide similar guidelines to inform the approach of decision makers and legal counsel in these matters. Reflection and input from parties during the Inquiry, including multiple circles and other meetings with Government Ministers, deputy ministers, senior Government advisors, legal counsel (at the Department of Justice and the private bar), and other justice stakeholders have offered insights as to the form and substance for the adoption of such guidelines in Nova Scotia. The guidelines suggested here also reflect the insights and lessons gained through the experience of the former residents on their journey to light.

The adoption of these guidelines will reflect and articulate the commitment to a different way forward the parties have made on this issue. Based on the work within the planning and action phase of the Inquiry, it is recommended the Attorney General of Nova Scotia issue guidelines in support of a shift in the approach of Government in response to claims of system-related failures of care.

The Attorney General could issue guidelines consistent with their role under the *Public Service Act* (R.S. c 376) as the law officer of the Crown, and the official legal adviser of the Lieutenant Governor, and the legal member of the Executive Council. The Attorney General is responsible to advise the heads of the several departments upon all matters of law concerning such departments or arising in the administration thereof; and for regulation and conduct of all litigation for or against the Crown or any public department in respect of any subject within the authority or jurisdiction of the Government.

The guidelines would provide guidance to Government (to Ministers, departments, and agencies) when they are instructing counsel. They would serve as standing notice to the legal counsel of the intentions of Government with respect to the conduct of civil litigation in such matters so they might be prepared to provide advice and receive instruction consistent with these guidelines.

Guidelines would:

a) Apply to cases of institutional failures of care involving the Government – including but not limited to institutional abuse including individual or class claims. While intended to support and further encourage the Province's commitment and leadership to a restorative approach to justice broadly, however, these guidelines only apply to those cases involving a failure of care connected to systems or institutions over which Government has responsibility. They would not apply to all cases in which the Government is a respondent.

b) Not apply when the Crown is acting as prosecutor within the criminal justice system. Guidance for the use of a restorative approach in criminal proceedings

is contained within the Nova Scotia Restorative Justice Program Protocols approved by the Attorney General.

c) As indicated below, the guidelines would apply to all stages of proceedings and are not limited to the settlement of civil claims.

The guidelines call for the application of restorative principles in the approach, response, and conduct of civil claims when and to the extent possible. The restorative approach within the guidelines is aimed at a principle-based approach, not a particular process, practice, or outcome. The principles of a restorative approach relevant to these guidelines should be reflective of the principles underlying the Inquiry and consistent with those articulated in the Nova Scotia Restorative Justice Protocols.

Content of Draft Guidelines:

The exact content and wording of the guidelines should be determined through further consultation among Government stakeholders. It is essential, however, that they be developed by Government leaders and decision makers and should take into account the learning and understanding regarding risk aversion and responses to abuse achieved during the Inquiry and reflected in Chapter 6. It is also important to recognize that while these guidelines relate to the conduct of litigation, they are not aimed primarily at shifting the practice of legal counsel. Indeed, the guidelines recognize that the role of legal counsel is to give advice, but that they must act on instruction from their clients. In the case of Government, the clients are decision-makers and departmental leaders. The responsibility to shift Government's response to abuse then rests with these decision-makers and leaders who instruct legal counsel. The guidelines recommended here are aimed at informing and shaping the approach of these decision-makers and leaders. The guidelines will certainly impact the approach of legal counsel at an operational level. Legal counsel will also play an important role in supporting this different approach. However, given the guidelines relate to the instructions Government will give to legal counsel, legal counsel should not be primarily responsible to determine the content or commitment to such guidelines. Ministers and deputy ministers recognized their role and responsibility as decision-makers and leaders to support a shift in the response to abuse or failures of care in this way.

It is recommended that guidelines contain the following commitments and elements:

- Government will actively pursue a restorative approach as the first best option in responding to claims involving institutional failures of care. Government will look for, and take, all opportunities to respond restoratively at all stages in dealing with a file — including during preliminary review and assessment of the claim (advice and instruction) and at all stages in proceedings.

- A restorative approach requires integrative/whole of Government consideration and response to claims of institutional failures of care. In determining the appropriate response in a given case, attention should be paid to the connections and significance of relationships/issues involved across Government. The legal response should be considered as an integrated part of a holistic response. A relational analysis of interests, impacts, and opportunities, as well as risks, should inform legal advice and instruction.
- Client departments will have a central leadership role in determining and participating in a restorative response. Legal counsel should not be the lead or sole voice of Government within restorative processes. Attention and engagement of those involved in and connected to the matter is essential.
- In determining the conduct of litigation ensuring just outcomes for those affected individuals/communities particularly, and ensuring "no further harm," will be considered a matter of public interest.
- Consistent with this restorative approach the Government will:
  - not pursue weak legal positions or tactics that will bring harm to parties and/or the relationship with or trust of Government;
  - carefully review denials and consider admissions where possible in an effort to seek forward-focused solutions;
  - be trauma informed and culturally responsive in communications and engagement.
- Files will regularly be reviewed where a restorative approach was taken or rejected to determine what lessons can be learned about principles and approach to increase opportunity and success for a restorative approach in future.

6.3 Education in a Restorative Approach for Justice and other System Stakeholders

Throughout the various Inquiry processes, and specifically in relation to shifting responses to abuse and failures of care, stakeholders in the justice system identified the need for capacity building in order to take a restorative approach and support a different way forward. This will be important, for example, in conjunction with the adoption of the guidelines discussed above. Implementation will require support and capacity building both for Government decision-makers and leaders, and significantly for legal counsel.

Nova Scotia has shown significant leadership in restorative justice in the criminal context. The use of restorative justice recently expanded within the criminal justice system with the recent roll out of adult restorative justice. It as also expanded beyond criminal justice to other areas of the legal system including into human rights protection[5] and the adopted by the Nova Scotia Barristers' as part of its strategic plan and approach to complaints and regulation of the profession.[6]

Drawing on existing experience and expertise within the province, it is recommended that professional education for lawyers, justice, and other system stakeholders be developed and supported in collaboration with the Department of Justice and the Deputy Ministers' Social Policy Committee.

Ongoing education and training for lawyers and other justice stakeholders have been a key part of supporting a restorative approach in these areas. These efforts to provide such education and training for a restorative approach to justice will be an important resource in developing educational supports for legal counsel and system decision makers in relation to the shift in responding to failures in the system of care. The Children and Youth Commission and other external resources, as contemplated earlier in this chapter, in association with establishing mechanisms to support the system shift, will also be a helpful resource once it is established.

Drawing on existing experience and expertise within the province, it is recommended that professional education for lawyers, justice, and other system stakeholders be developed and supported in collaboration with the Department of Justice and the Deputy Ministers' Social Policy Committee. The Nova Scotia Barristers' Society may also consider how it could support such education and professional development for its members in keeping with its responsibility for professional standards. In addition, the Canadian Bar Association has expressed a willingness to support efforts to offer education to its members.

6.4 Restorative Approach to Reviews & Inquiries (including internal reviews/ serious case reviews)

This Restorative Inquiry has modelled the potential of taking a restorative approach in future to public inquiries and other inquiry processes, including, but not limited to, death reviews, domestic homicide reviews, serious case reviews, and other system and institutional investigation and review processes.

As the first experience in taking a restorative approach to a public inquiry, there is much to be learned from this Inquiry in terms of its design, governance, and operation (see Chapter 2 for some considerations regarding the design and operation of the Inquiry).

Parties and partners in the Inquiry have expressed a sincere commitment to taking a restorative approach to future inquiries and issues. It is important that efforts to take this approach in future benefit from the experience and lessons learned through this Inquiry. While the scope of processes will differ, the significance of a restorative approach in ensuring attention to context, causes, and circumstances, and to consider the role of culture, has relevance across the various inquiry and review processes. The core elements of the restorative inquiry's work focused on

relationship building, learning and understanding, and planning and action within the frame of a commitment to problem-solving, solution finding, and supporting conditions for action in real time also model the potential for a restorative approach. Taking a restorative approach to future inquiries and reviews is a key element in supporting the shift to human-centred systems described in Chapter 6.

Based on its experience through this Inquiry and the feedback from parties to the process, the Council of Parties recommends this approach for future public inquiries, or expanding its reach to other inquiry and review processes. It is recommended that a group of system leaders (including those responsible for establishing and/or conducting such inquiries and reviews) convene to consider lessons learned from this Inquiry and opportunities to support a restorative approach to such inquiries and reviews in future.

Taking a restorative approach to future inquiries and reviews is a key element in supporting the shift to human-centred systems described in Chapter 6.

The Nova Scotia Advisory Council on the Status of Women, the Chief Medical Examiner's Office, and the Department of Justice have already expressed interest in participating in such a process. Other participants might include the Nova Scotia Human Rights Commission, the other social service departments (including the departments of Community Services, Labour and Advance Education, and Health and Wellness), as well as the Public Service Commission.

In addition to considering the information provided in this Report, such a process would benefit from the involvement of members of the Council of Parties and the Reflection and Action Task Group to share their knowledge and experience of this Inquiry process. This would provide an opportunity to collectively consider the significance and potential of this different way forward for the future.

Endnotes:

[1] See the Reports of the Action Committee on Access to Justice in Family and Civil Matters http://cfcj-fcjc.org/action-committee/publications/

[2] NSA, *Task Force on Children with Special Needs (N.S.)* (Halifax: Department of Social Services, 1973).

[3] Law Commission of Canada, *Minister's Reference on Institutional Child Abuse : Interim Report (Ottawa: Law Commission of Canada, 1998).*

[4] See the Nova Scotia Restorative Justice Program Protocols issued by the Attorney General online at: https://novascotia.ca/restorative-justice-protocols/general-protocols.asp

[5] The Nova Scotia Human Rights Commission introduced a restorative approach to its work in 2012. Since that time, it has refined and expanded the approach. It is now the central approach informing its policies and procedures. See the Nova Scotia Human Rights Commission's dispute resolution policy and procedures online at: https://humanrights.novascotia.ca/dispute-resolution-policy-and-procedures

[6] A restorative approach forms part of the foundational activities under the Society's current strategic framework. See online at: https://nsbs.org/sites/default/files/cms/menu-pdf/2016-2019_stratframework.pdf

Afterword & Forward, Appendices

Afterword and Forward

From VOICES

When former residents started this Journey to Light there were only a few who travelled along with us. We were committed to this journey because we wanted to make sure there was no further harm and that no one else will go through what we went through. Our experiences at the Home and when we came forward to tell our stories have shown us that we, as a society, need to do better for young people in need of love and care, for those who experience harm and abuse within systems of care, and for African Nova Scotian families and communities that continue to face challenges and struggles caused by systemic racism.

We knew this would require a different way forward. It required people to support one another in doing better – in being better together. This is why VOICES invited others to join in our journey. So that we can travel together and support one another on the road ahead.

As former residents who have been a part of this Restorative Inquiry we have been humbled and amazed by the response to our invitation. We did not imagine at the beginning how many others would join us on this path. We have found others who have been harmed by racism and who experienced lack of care and abuse. We have also been joined by those within systems and communities who have seen and felt the need for a different way for a long time. We learned that when we invite people in and make it safe and possible them to be part of the journey we find allies we did not know we had. We heard voices that were previously silenced.

Our commitment to each other as former residents, was to "do not further harm" and "leave no one behind." This has been our way with each other, but it has also been the way we have come into this work of the Inquiry with others. Our way has not been about naming, blaming or shaming. It has been to extend an invitation for those who have been harmed and those who have responsibilities related to that harm, and others who hold responsibilities for the future, to come together, committed to help and do no further harm.

When we came together with others to design the Inquiry, we named ourselves after the Africentric principle Ujima, meaning collective work and responsibility. All who come in this spirit are welcome on this journey – we will leave no one behind who is committed to building and maintaining a community of shared responsibility and who will work to learn and understand and solve our problems together.

Through this Inquiry we have shown how, if we work together, we can move forward from isolation to connection, from silence to dialogue, and from darkness to light. This is what we need to keep doing as we continue to travel forward from this Inquiry on this journey to light.

The former residents' voices have been heard, and through this Inquiry it is no longer just our voices we hear calling for a different way forward. We have broken down barriers and found new ways of talking and listening and now our voices are joined with others amplifying the commitment to the journey to light as a way forward for all of us.

Through the Inquiry we have prepared the way for the change that is needed to make a real difference for the future. The Inquiry has shifted our understanding of what matters about what happened in the Home and through the process the ways we relate to one another. We must all now play our part in the journey to shift how we work and live together in the future.

We write this Afterword to the Report as the work of the Restorative Inquiry comes to an end and we hope it serves as a foreword for the work to come. The journey to light is no longer ours to travel alone. Through this process many other voices have joined in a chorus that will rise to the challenges ahead on the journey to light for young people who need care, and for families and communities across Nova Scotia. We need to continue to travel forward together in this different way.

APPENDIX A: Contributors List

List of individuals who made contributions in support of the Restorative Inquiry's Work

Note that this list does not include individuals who participated in the processes and activities of the Inquiry. As discussed in the Report these individuals (and they were many of them) made significant contributions to the work and outcomes of the Inquiry. We have decided in keeping with our commitments to those who participated in this way not to name them individually.

This list reflects those who contributed in other ways to directly support the operations and work of the Restorative Inquiry.

Commissioners/Members of the Council of Parties

Tony Smith is a former resident of the Home for Colored Children and cofounder and co-chair of VOICES. He advocated a settlement for the former residents with the Home and Provincial Government, as well as a public inquiry. He was a member of the UJIMA design team for the terms of reference for the Inquiry; served on the interim Council of Parties, and the Reflection and Action Task Group.

Gerry Morrison is a former resident of the Home for Colored Children and cofounder and co-chair of VOICES. He was a member of the UJIMA design team for the terms of reference for the Restorative Inquiry, as well as a member the Reflection and Action team of the Restorative Inquiry.

Deborah Emmerson is a member of the historic African Nova Scotia community of Lucasville. Former resident of the Nova Scotia Home for Colored Children and for the past 30 years, has been working in Community Development.

W. Dean Smith is a lawyer and former Vice-Chair of the Delmore Buddy Daye Learning Institute, an Africentric Education and Research Institute in Halifax. He is actively involved in coaching with Metro Minor Hockey, and is lead instructor to the Black Youth Ice Hockey Diversity Program.

George Gray is a retired teacher/principal from the Halifax Regional School Board, a past Moderator of the African United Baptist Association of Nova Scotia (AUBA) and past President of the Canadian Baptists of Atlantic Canada (CBAC). He is also a member of the Board of Directors of the Akoma Family Centre/Akoma Holdings.

Chief Judge Pamela Williams was appointed a judge of the Provincial and Family Courts of Nova Scotia in September 2003 before becoming Chief Judge in February 2013. She has presided over adult and youth criminal proceedings and occasional family court matters. She is the dedicated judge for the Dartmouth Wellness Court and she also presides in adult criminal court.

Jennifer Llewellyn is the Yogis and Keddy Chair in Human Rights Law at the Schulich School of Law, Dalhousie University. She has written and published extensively on the theory and practice of a restorative approach. In 2015 she was awarded the National Ron Wiebe Restorative Justice Award and in 2018 was the recipient of the Social Sciences and Humanities Research Council National Impact Award the highest award for research achievement and impact in Canada.

Michael Dull is a civil litigation lawyer in Halifax, with a focus on class proceedings. He worked as class counsel for the former resident of the Nova Scotia Home for Colored Children in helping achieve a class action settlement. Wherever possible, he practices restorative justice in his legal practice.

Jean Flynn was appointed as a Commissioner to the Inquiry representing the Provincial Government. She has been with the Nova Scotia Government since 2009. Over the past two decades she has worked in the fields of gender-based violence, social justice and policy development.

Wayn Hamilton has been working with the Office of African Nova Scotian Affairs since 2003, where he currently serves as Executive Director. He is the Lead Facilitator for the Connective to Africa Society, a non-profit group seeking to increase awareness, advocacy and action partnerships with African Nova Scotian organizations and like-minded groups in Africa.

Joan Jones was a leader of the civil rights movement in Nova Scotia (and Canada). Her knowledge, insight and experience with the child welfare system and the African Nova Scotian was invaluable to the work of the Inquiry. Her fierce and frank assessment, fuelled by compassion and an appreciation of the complexity of relationship in community and government was instructive and inspiring.

Former Members of the Council of Parties

Shawna Hoyte
Sylvia Parris-Drummond
LaMeia Reddick

UJIMA Design Team

Jennifer Llewellyn*
Michael Dull*
Tony Smith*
George Gray*
Tracey Thomas
Michelle Williams
David Darrow*
Stephanie MacInnis-Langley*
Carolann Wright-Park
Tracy Dorrington-Skinner
Chad Lucas
Kenneth Fells
Gerald Hashey
Sylvia Parris-Drummond*
Gerry Morrison*
*also served on Interim Council of Parties

Advisory Group

David Darrow
Tracy Dorrington-Skinner
Stephanie MacInnis-Langley
Tracey Thomas

Reflection and Action Task Group

Deputy Minister of Justice
Deputy Minister of Health and Wellness (including Senior Leadership of the Nova Scotia Health Authority and the IWK Health Centre)
Deputy Minister of Community Services
Deputy Minister of Education and Early Childhood Development
Deputy Minister of Labour and Advanced Education
Deputy Minister of Communities, Culture and Heritage
Jennifer Llewellyn
Tony Smith
Gerry Morrison
George Gray
Jean Flynn

Members of Facilitation and Coordination Team

Ashley Harrison
Barry Cahill
Carolann Wright-Parks
Chad Lucas
Danielle Jackson
David Divine
Diane Giovindsamy
Folami Jones
Gina Jones-Wilson
Jalana Lewis
Jenee Jarvis
Juanita Peters
Rhonda Atwell
Terry Dixon

Research Support

Aimee Standen
Alain Turbide
Claire Halstead
David Napier
Diane Crocker
Gillian Clarke
Joanne Babin
John MacLeod
Larissa Doran
Patti Bannister
Sandra McFadyen

Process support

Alan Sears
Bronwen Low
Carla Peck
George Elliott Clarke
Gerald Voorhees
Holly Murphy
Jacob MacIsaac
Jennifer Roberts Smith
Jermaine Mombourquette
Kai Butterfield
Kenneth Fells
Khalilah Brooks
Kristina Llewellyn
Lennart Nacke
Lindsay Gibson
Nicholas Ng-A-Fook
Prasanna Kariyawansa
Richard Derible
Shelina Gordon
Sylvia Hamilton

Subject Matter Expertise

David Fraser
Fania Davis
Gale Burford
Joan Pennell
Margaret Burnham
Mary Ivec
Moana Eruera
Nigel Richardson
Paul Nixon
Renee Lafferty
Saleem Tariq
Sharon Inglis
Veronica Strong-Boag
R. Blake Brown

Lunch & Learn Presenters/ Education Supports

Colin Campbell
Darlene Lamey
Donna Smith
Erin Montgomery
Jason Vaillancourt
Jocelyn Stevens
Kesa Munroe-Anderson
Michelle Williams
Princewill Ogban
Sarah Granke
Sharon Davis-Murdoch
Winnie Benton

APPENDIX B

The following list of Board Members was compiled from available information contained within the NSHCC Fonds and other sources. It is provided for information purposes and has not been verified by the Restorative Inquiry.

Early Decades: 1915-1961			
Anderson, M.L. Rev.	Davis, George W.	MacDonald, J.L.M., Dr.	Stevens, B.D.
Bailey, William J.	DeCosta, W.F.	MacKeen, H.P. Mrs.	Stevens, D.D.
Ball, D.S., Col.	Dennis, W.H.	Majors, Charles S. Treasurer (Hon.) 1927-1940	Strickland, C.N.S.
Barss, William de W.	Duff, Wm. Hon.	Mitchell, A.B. Treasurer 1921-1926	Weir, H.V.
Bauld, D.S.	Evans, A.W.	Mullane, Thomas W. Secretary 1940-1955 Treasurer 1937-1955	
Bauld, Henry G President 1917-1948	Grayson, A.D.	Murphy, John E.	
Blackador, C.C.	Hart, G.H.	Murray, R.G., Prof.	
Blakeney, Byron A. Vice-President 1940-1955	Hart, George R. Treasurer 1917-1919	Murray, Robert H, Judge Vice-President 1921-1926; 1928-1931 Secretary 1917-1919	
Blenus, Victor W.	Hudson, Elliott, Judge	Piercy, W.D.	
Blois, Ernest H.	Jackson, Julia	Puryear, Moses, Rev.	
Blois, H.H.	Johnson, Thomas O.	Ross, Fraser Vice-President 1955-1961	
Burgoyne, W.P. Secretary 1955-1960 Treasurer 1960-1961	Johnson, Thomas P.	Ross, John F.	
Carrigan, L.P.	Kinney, James A.R. Jr. Secretary 1961-1967	Savage, A.G.	
Climo, Charles H.	Kinney, James A.R. Sr. Secretary 1921-1927; 1928-1940 Treasurer 1927-1928	Scriven, W.R.	
Cummings, Melville. Dr. President 1948-1966	Leverman, Fred D. Jr.	Smith, George A. Treasurer 1931-1937	
Dally, H.V.	MacDonald, J.D.N. Rev. Dr.	Stairs, W.J. Vice-President 1927-1928; 1931-1940	

Transition Years: 1962-1978			
Adams, Wayne	Fairfax, Donald E, Rev. President1974-1977 Vice-President 1972-1980	McCarthy, Gerald	Ross, Joyce
Anderson, M.L. Rev.	Forsythe, Ian K, Dr.	McCurdy, George	Savage, John P, Dr. Vice-President 1975-1980
Barton, Bradford	Grayson, A.D. Treasurer 1962-1973	McInnes, Donald	Skeir, Donald D. Rev. President 1977-1978 Treasurer 1973-1974
Bauld, D.S.	Grindley, J. Eldridge	McInnes, Donald, Mrs.	Smith, Churchill
Best, Carrie	Hudson, Elliott, Judge	McInnes, Elizabeth	Smith, Donna
Blenus, Victor W. Vice-President 1963-1972	Hunter, Anna Lee, Rev.	Moffett, Maizie	Stevens, Amos
Blois, H.H.	Johnson, Josephine	Oland, Donald	Stevens, B.D.
Brindley, James E. Secretary 1974-1979	Johnson, Paul, Prof.	Oliver, Jules R.	Symonds, Calvin, Lic.
Butler, Bob	Johnston, Alma	Oliver, W.P. Rev. (Dr.)	Wedderburn, H.A.J. (Gus)
Clayton, W. Rev.	Johnston, P.A. Dr.	Paris, Cherry M. Secretary 1968-1973	Williams, Eugene
Cox, Harlan	Johnstone, Paul Anthony (Tony)	Paris, Mary	
Crawley, Iona	Kelsie, Wayne	Piercey, W.D.	
Croft, Alice President 1966-1973 Treasurer 1975-1980	Kinney, James A.R. Jr.	Shaw, Lloyd	
Croft, R.F. Mrs.	Leverman, F.G. Jr.	Provo, Portia	
Cummings, Melville, Dr.	MacDonald, Rev.	Romkey, L.M.	
Davis, G.W.	Mack, Joseph C. Rev.	Romkey, Lee, Dr.	
Earle, Gordon	MacKeen, H.P. Mrs.	Ross, Fraser	

New Home Years: 1979-1989			
Adams, Wayne	Fairfax, Donald E, Rev.	McFarlane, Malcolm	Thomas, Carolyn
Barton, Judy	Francois, James Vice President 1984-	McNeil, John F. (Jack) Treasurer 1985-	Thomas, Gertrude
Bates, Ben	Godin, Roger	Mills, Frances	Thomas, Matthew
Beals, Sheila R.M. Secretary 1985-	Gray, Darcy	Mills, Frances, Mrs.	Tynes, Gertrude E. Vice-President 1983-1984 President 1984-
Bernard, Wanda Thomas	Grosse, Twila Treasurer 1983-1984	Oppong, Andrew	Wedderburn, H.A.J. (Gus)
Bizzeth, Telbert	Harper, James Treasurer 1981-1982	Paris, Cherry	White, Lorne
Brindley, James E.	James, Alan	Paris, Percy	Williams, Eugene
Brookbank, Roy	James, Connie Secretary 1984-1985	Parris, Yvonne	Williams, Howard
Carvery, Linda	Johnson, Carol	Parsons, Helen Secretary 1981-1982	Wilson, William
Clayton, Willard, Rev.	Kelsie, Wayne President 1982-1983 Treasurer 1984-1985	Ross, Joyce	Wright, Ivan
Croft, Alice	King, Gordon	Sameuls-Stewart, Victrene	Zahn, Maxine
Darrell, Bryan O.	MacDonald, Beverley	Shephard, Maxine Vice-President 1981-1984	
David, Clinton	MacInnis, Tom, Hon.	Smith, Donna	
DeRoche, Ray	Manning, M. John.	Smith, Rodger, G.J.	
Downey, Susan	Mansfield, Michael	Sparks, Corrine E. Secretary 1983-1984	
Earle, Gordon President 1980-1981	Marsman, Veronica	States, Marvin	
Earle, Jane	Maxwell, Ann	Steele, Corrine	

Later Years: 1990-2015			
Adekola, Moses Rev.	Edmonds, Susan	Kelsie, Arthur, Rev.	Smith, Donna President 1991-1993
Akindoju, Yemi	Emodi, Thomas	Knockwood, Noel	Smith, Marilyn
Aylward, Carol	Fashan, Shelly Secretary 2000-2003	Lucas, Matthew, Rev.	Smith, Rodger G.J. President 1993-1996
Banaissad, Esmail	Francois, James A.	Lucas, Nancy	Smith, S.
Bartolo, Richard Treasurer 1995-	Fraser, Rose	MacNeil, John F. (Jack)	Southwell, Rustum
Barton, Bradford	Graham, Roger	Mansfield, Michael Vice-President 1997- President 2000-2003	Sparks, Nancy Vice-President 2003-
Barton, Howard	Grant, Roger	Millar, Harvey, Prof.	Thomas, Carolyn
Bates, Ben	Gray, Darcy	Moriah, Lionel, Rev. Dr.	Thomas, Kendrick
Benton, Winnie	Gray, George	O'Brien, Barbara Ann	Thomas, Velma
Bernard, Sherleen	Greenlaw, Beverly	Paris, Doreen	Thurber, Darrell Treasurer 2003-
Boudreau, R. Gerald Secretary 2003-	Hendsbee, David	Parris, Brian	Tolliver, Althea Director 1997-
Boyd, Ken	Hoyte, Shawna	Parris, Sylvia	Tupper, Muriel
Buchhoiz, Andrea	Jackson, Wilfred	Parris, Yvonne	Tynes, Gertrude
Crooks, Allen	Johnson, Beverly Secretary 1995-	Parson, Chester Treasurer 2000-2003	Upshaw, Cedric
Cyrus, James Pemberton, Dr. Treasurer 1993-	Johnson, Carol President 1995-	Perkins, Nathalie	White, Elaine
Darrell, Bryan O. President 1989-1991	Jones, Lynn	Roberts, Gail	White, Lorne Dr. Vice-President 2000-2003 President 2003-
Douglas, Kendrick	Jones-Darrell, Janis Vice-President 1997-	Saunders, Alfred	White, Ronald
Earle, Douglas	Jordan, George W.	Skeir, Grace	Williams, Michelle

Dates Not Indicated			
Adams, Nina (No Date)	Douglas, Earle	Hunter, Anna, Rev.	Pulsifer, Wanda
Barton, Allister	Ellsworth, Gail	Jacobson, Elliot	Romkey, Leland
Beals, Archie	Fanning, Allan, Mrs.	James-Moffett, Maisie	Seymour, Russell
Beals, Ruby	Fillmore, Shelly	McColeman, Dorette	Taylor, Crystal
Borden, George	Haley, Bob	Perry, Fred	Williams, Dolly
Denison, Donald	Hamilton, Germaine	Prevost-Shephard, Maxene	

APPENDIX C

The Restorative Inquiry conducted a quantitative review of all available former resident case files in the Home Fonds from its opening until the end of operations of the NSHCC. The raw data is available as part of the Inquiry records held at the Nova Scotia Archives. The charts below offer some of the findings most relevant as context for this Report.

Gender

	Frequency	Percentage
Female	1003	46.3%
Male	1161	53.7%
Total	2164	100

Age at Admission (mean age = 12 years; median age = 14 years)

	Frequency	Percentage
0-5 years	264	12.8%
6-10 years	244	11.9%
11-15 years	1200	58.3%
16 years & over	350	17%
Total	2058	100

Age at Admission (over phases)

	Early Decades (1921-1961)	Transition Years (1962-1978)	New Home (1979-onwards)
0-5 years	59.2%	33.7%	1.5%
6-10 years	23.4%	39%	3.7%
11-15 years	14.9%	25.7%	72%
16+ years	2.5%	1.7%	22.7%
Total Count	201	362	1495

Length of Stay (in Years)

	Frequency	Percentage
Less than 1	1509	82.5%
1	111	6.1%
2	62	3.4%
3	37	2%
4	23	1.3%
5	22	1.2%
6	18	1%
7	21	1.1%
8	6	0.3%
9	2	0.1%
10	2	0.1%
11	2	0.1%
12	5	0.3%
13	3	0.2%
14	1	0.1%
15	1	0.1%
16	1	0.1%
17	2	0.1%
Total	1828	100

Length of Stay (in months)

	Frequency	Percentage
Less than 1	607	33.2%
1	341	18.7%
2	167	9.1%
3	114	6.2%
4	66	3.6%
5	57	3.1%
6	47	2.6%
7	22	1.2%
8	27	1.5%
9	28	1.5%
10	22	1.2%
11	11	0.6%
Total	1509	82.5%

Average Length of Stay in months (over Phases)

	Early Decades (1921-1961)	Transition Years (1962-1978)	New Home (1979-onwards)
Average length (in months)	43.13	17.07	3.46
Number of files	174	311	1329

Average Length of Stay in months (over decades)

	1930s	1940s	1950s	1960s	1970s	1980s	1990s	2000s	2010s
Length of Stay	170	129	37.6	16.2	25.43	3.54	3.3	3.24	-
Number of files	2	14	96	283	102	626	452	217	2