



What are my rights during a “child protection” investigation?

Scope of this guide

This guide is for parents and caregivers who are dealing with an investigation by the Ministry of Children and Family Development (MCFD) or a delegated Indigenous Child and Family Service Agency (ICFSA). It does not discuss investigations conducted by an Indigenous Nation.

This guide does not provide legal advice. If possible, talk to a lawyer to learn more about your rights and your options based on your specific situation.

Free legal help is available. You might be eligible for free legal representation from Legal Aid BC and, if you're Indigenous, an Indigenous Justice Centre. Their services start from the moment MCFD or an ICFSA contacts you.

Indigenous Justice Centres

1-866-786-0081 (toll-free)

virtual@bcfnjc.com

Legal Aid BC

1-866-577-2525 (toll-free)



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Who is investigating me?

The Ministry of Children and Family Development (MCFD)

MCFD is a BC government ministry that has the legal authority to protect children from what it believes to be abuse and neglect. It has offices throughout BC that carry out “child protection” activities.

An Indigenous Child and Family Service Agency (ICFSA)

An ICFSA is an agency that has been delegated (given) “child protection” powers by MCFD and serves a specific Indigenous Nation or community. MCFD’s policies and procedures apply to ICFSAs.

MCFD or ICFSA workers (“workers”)

Workers have the power to screen, investigate, and respond to child safety concerns. They might be called child protection workers, child safety workers, or social workers. Supervisors are called team leaders.

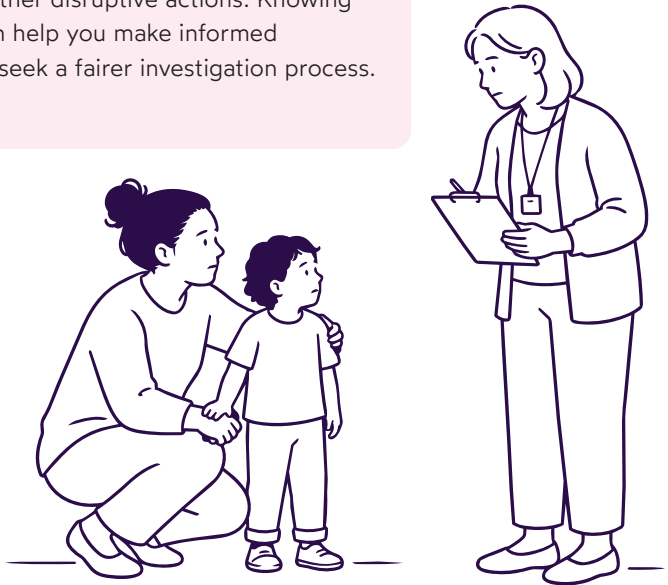
What can happen during an investigation?

During an investigation, a worker will usually try to:

- Talk to you and any other adults in the home.
- Talk to your child in private.
- Create a safety plan.
- Collect information from outside sources, such as the police, doctors, counsellors, and teachers.
- Visit your home to see your child's living situation.

Investigations are scary and overwhelming.

This is natural when the person who is investigating you has the power to remove your child or take other disruptive actions. Knowing your rights can help you make informed decisions and seek a fairer investigation process.



What are my rights?

CAUTION! If possible, talk to a lawyer about exercising your rights in your specific situation.

Refusing to talk to a worker or not letting them into your home will not stop the worker from continuing the investigation or making decisions about your child. A worker is not required to pause the investigation while you get legal advice and support. If the worker sees you as uncooperative, this could affect their decisions and be used against you in court.

1

You have the right to talk to a lawyer (and you should try to talk to one as soon as you learn about a report or investigation). If possible, talk to a lawyer before answering questions about the allegations, making decisions, or signing agreements. Otherwise, talk to a lawyer as soon as possible afterward.

Accessing a lawyer. Don't make assumptions about your eligibility with Legal Aid BC or, if you're Indigenous, an Indigenous Justice Centre. It is always a good idea to contact these organizations to see if they can help you.

2

If your child is Indigenous, you have the right to talk to the designated representative of your child's Nation (often called a designated band representative).

What is the role of a designated band representative?

A designated band representative participates in MCFD and ICFSA processes on behalf of an Indigenous Nation. They can provide legal and cultural advocacy to parents during investigations.

3

You have the right to have a support person with you during calls, meetings, and other interactions with a worker.

4

You have the right to information. A worker must explain the investigation process and the allegations being investigated.

5

You have the right to be heard. A worker must give you the opportunity to respond to the allegations. However, you are not required to respond.

6

You have the right to an interpreter if you have trouble understanding or speaking English, or if you need sign language interpretation.

7

You don't have to talk to a worker or answer specific questions unless a court order requires you to provide information.

8

You don't have to allow a worker into your home unless the worker (a) has a court order to enter your home or (b) is entering your home to remove your child.

What if a worker comes to my home with a police officer?

Often, when you see a worker and a police officer at your door, the officer is there to help the worker. The officer usually cannot enter your home without your permission unless *the worker* (a) has a court order to enter your home or (b) is removing your child.

However, there are also situations where the officer has a separate power to enter your home without your permission, like when the officer has a criminal warrant.

9

You have the right to refuse a drug test or mental health assessment. These assessments can only happen during an investigation with your agreement or a court order.

10

You have the right to make a complaint to MCFD about your investigation experience.

I'm a child or youth. What are my rights?

You have your own rights when your parent is under investigation. You have the right to be heard.

A worker is required to (a) ask for your views on your safety and care, and (b) consider those views when making decisions that affect you. The right to be heard does **not** mean you are required to talk to a worker or answer specific questions.

You might be able to speak to your own lawyer.

Contact the Child and Youth Legal Centre to see if they can help you. You can also ask a worker to help connect you with a lawyer.

To learn more about your rights and access help, contact:

Representative for Children & Youth

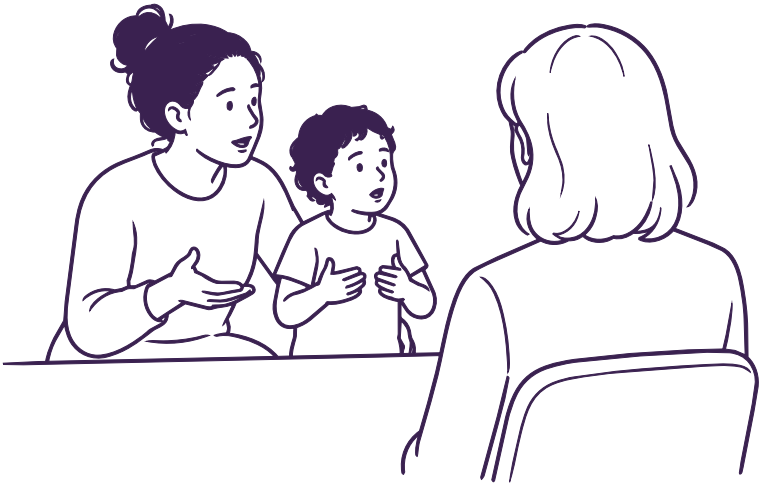
1-800-476-3933 (toll-free)

rcy@rcybc.ca

Child and Youth Legal Centre

1-877-462-0037 (toll-free)

cycl@scyofbc.org



Complaints

You can make a complaint about your investigation experience with MCFD or an ICFSA by calling or writing to MCFD's internal complaints office. This office is called the Client Relations Branch.

MCFD's Client Relations Branch

1-877-387-7027 (toll-free);

Online complaints form: <https://bit.ly/3QE6fp>

If possible, talk to a lawyer or advocate before making a complaint, and see if they can help you with the complaint process.

If you complete MCFD's complaints process and you are not satisfied with the result, you can make a complaint to the Office of the Ombudsperson. This is an independent office that investigates unfair treatment by government agencies.

Office of the Ombudsperson British Columbia

1-800-567-3247 (toll-free)

Online complaints form: <https://bcombudsperson.ca/online-complaint-form>

Tips For When a Worker Contacts You

- ✓ **Do your best to stay calm** even though the conversation may be upsetting. The worker can write down anything you say, do, or express (including your emotions and body language). This information can be used against you in court. Ask for a break if you are feeling emotional or overwhelmed.
- ✓ **Take notes.** Write down a description of the call or meeting, including what you and the worker said.
- ✓ **Ask for the names and contact information** of the worker and their team leader (their supervisor). If a police officer is helping the worker, ask for the officer's name and badge number.
- ✓ **Try to reschedule the call or meeting** so you have time to talk to a lawyer beforehand.

Legal help comes in different forms.

These tips mention getting help from a lawyer. When a worker contacts you, you can also request time to talk to an advocate or designated band representative. An advocate or designated band representative can help you communicate with your lawyer and provide extra support during the investigation.

- ✓ **Tell the worker if your child is Indigenous** because specific rules and protections will apply.
- ✓ **If possible, wait to talk to a lawyer** before answering questions, sharing your views, making agreements, signing documents, or responding to other requests. Ask the worker to write down questions and requests so you can review them later with your lawyer.
- ✓ **Less is more if you decide to answer questions.** Keep your answers short and to the point. Don't share information that isn't relevant to the allegations. You can give more information later, after talking to a lawyer.
- ✓ **Don't be afraid to ask questions.** You can ask for more information. If something isn't clear, you can ask for it to be explained again. It is important that you understand a question or request before you respond to it.
- ✓ **Ask for a break** if you need time to feel calmer, gather your thoughts, or make a decision.
- ✓ **After the call or meeting ends,** talk to a lawyer right away.

What if I'm asked to agree to a safety plan right away?

A safety plan is an agreement with MCFD or an ICFSA that is meant to protect your child's safety during the investigation. In some cases, a worker might threaten to remove your child if you do not agree to a safety plan right away. If you agree to a safety plan before talking to a lawyer, talk to a lawyer as soon as possible afterward.

Can I cooperate with an investigation and also assert my rights?

Yes! Here are some scripts that could help you use your rights to slow down the investigation process. This could give you more time to get legal advice and support.

Is this call/meeting urgent? Does it need to happen now?

Is responding to that specific question/ request urgent? Do I need to respond now?

I'd like to schedule another time to talk/ meet because...

- Now is not a good time for me.
- I want to talk to my lawyer.
- I want my lawyer to be there.
- I want my support person to be there.

I don't understand. I need an interpreter before we continue.

I want to talk to my lawyer before I respond to that question/ request. Can you write it down?

I'm willing to talk to you, but I'd like to meet somewhere else. Can we meet at [location]?

Do I need to agree to a safety plan right away? Can I review the safety plan with my lawyer before agreeing?

Can we take a break?...

- I want to call my lawyer.
- My support person is on their way.



Legal and Advocacy Resources

RESOURCES FOR PARENTS

Indigenous Justice Centres

Legal services for Indigenous people.
1-866-786-0081 (toll-free)
virtual@bcfnjc.com

Legal Aid BC

Legal services for low-income BC residents.
1-866-577-2525 (toll-free)

Parent Support Services Society of BC

Support for parents, grandparents, and kinship caregivers.
1-877-345-9777 (toll-free)
office@parentsupportbc.ca

RESOURCES FOR CHILDREN & YOUTH

Child and Youth Legal Centre

Legal services for children and youth.
1-877-462-0037 (toll-free)
cycl@scyofbc.org

Representative of Children & Youth

Support for children, youth, and families.
1-800-476-3933 (toll-free)
rcy@rcybc.ca



LEARN MORE

Learn more about your rights during investigations at [westcoastleaf.org/family-investigations](https://www.westcoastleaf.org/family-investigations)



West Coast LEAF
www.westcoastleaf.org