

IN THE MATTER OF AN INDEPENDENT REVIEW
UNDERTAKEN BY THE GOVERNMENT OF YUKON,
DEPARTMENT OF EDUCATION

Re: Governmental Response to Allegation of Sexual Abuse Committed by
Educational Assistant William Auclair-Bellemare
at Hidden Valley Elementary School

**REPORT OF AMANDA ROGERS,
INDEPENDENT REVIEWER**

January 31, 2022

INTRODUCTION

In October 2021, I was approached by Government to conduct an independent review of its handling of an allegation that an Educational Assistant at Hidden Valley Elementary School sexually abused a student. This allegation was later confirmed through criminal conviction.

The need for this review was obvious. At all levels of Government, everyone I spoke with acknowledged and regretted the fact that this matter was not handled better. In speaking with Government employees and officials during this review, I heard a collective desire to learn from this experience. Everyone I spoke with recognizes the need to ensure proper policies, training, and procedures exist to ensure that in the unfortunate event something like this is discovered in future, YDE's response will include appropriate information and supports for families and will ensure information is shared with the RCMP in the course of the criminal investigation.

Independence was a critical component and condition of my accepting this appointment. To this end, I was hired as an independent reviewer acting in consultation with the Department of Education, but not at its direction. To facilitate this review and ensure its comprehensiveness, the Government of Yukon waived solicitor-client privilege and Cabinet privilege over documents, authorized me to publicly disclose information I determine appropriate, and make recommendations flowing from these factual findings.

A. TERMS OF REFERENCE FOR REVIEW

My terms of reference under which this review was undertaken are as follows:

1. This review into these matters will be conducted in a fair, impartial, and comprehensive manner and will involve facilitated discussions, interviews and engagement with key stakeholders, all of which will be completed in a sensitive and respectful manner.
2. As an independent assessor, I will determine my own process for the review in consultation with the Government and within the mandate set out in these Terms of Reference.
3. I intend to travel to the Yukon to meet with parents, families and guardians of affected students at Hidden Valley Elementary School, partner organizations and agencies, and any other stakeholders whose participation I determine to be relevant. As well, it may be necessary to conduct some interviews and/or meetings remotely via Zoom or other conferencing platforms.
4. At the conclusion of the review process, I will submit a detailed and timely report to the Department of Education which will include:

- a. findings of fact related to responses of the Department of Health and Social Services, Department of Education and Department of Justice to the incident in 2019 at the Hidden Valley Elementary School; and
- b. recommendations for improving Government-wide policies and procedures to better support Yukon school communities.

Barring unforeseen circumstances, the report will be delivered by January 31, 2022.

5. The Government of Yukon agrees not to subpoena or seek a Court Order or use any other legal process to attempt to demand production of my interview notes or call me as a witness to testify in any legal proceedings.

B. BACKGROUND TO REVIEW

William Auclair-Bellemare (WAB) was hired as an Education Assistant (EA) in 2014 at Hidden Valley Elementary School (HVES). In this role, WAB worked one-on-one with special needs' students. Prior to his work at HVES, WAB worked as a Teacher on Call (TOC) in the French school system. As an employee of the Government of Yukon Department of Education (YDE), WAB was required and did undergo a criminal background check pursuant to the Government's Security Clearances Policy 3.25 (General Administration Manual Volume 3: Human Resource Policies). He had no criminal record at his date of hire.

In addition to his EA work, WAB also ran an extracurricular club at HVES and worked in the separately run after-school-care program at the school.

(i) Timeline of Events

On Sunday, November 17, 2019, the principal of HVES was informed by a parent that their child, with whom WAB was working one-on-one at HVES at the time, had been sexually abused by WAB. This information was reported to Family and Children Services (FCS), who in turn, contacted the RCMP. WAB was told not to report to work. His last day of work at HVES, therefore, was Friday November 15, 2019.

Between November 18 to 21, 2019 the RCMP worked closely with FCS and HVES administration to investigate the allegation. On November 21, 2019, WAB was interviewed by the principal of HVES and Human Resources as part of its employment-related investigation process. A representative of the Yukon Teacher's Association ("YTA",) of which WAB was a member, was also in attendance. During this meeting, WAB admitted to the conduct alleged by the student.

On November 22, 2019, WAB was arrested and released on conditions including that he not be in contact or communicate with youths under 18 years of age. The investigation continued and WAB was formally charged with sexual assault and sexual interference on December 2, 2019.

YDE issued a formal suspension letter to WAB on January 7, 2020. On February 12, 2020, WAB pled guilty to sexual interference and the formal process for termination of employment commenced. On March 18, 2020, an investigative meeting was held with WAB and a representative from the YTA. WAB was issued a letter terminating his employment with YDE on April 14, 2020. On January 18, 2021, WAB was sentenced to six months in custody and two years' probation, and a restriction to not be in contact with minors for five years following his release from prison.

(ii) Parents Are Not Informed

At the heart of this independent review, is the fact that the YDE did not communicate with families about WAB having been removed from HVES, investigated, charged and subsequently convicted for sexually abusing a student at HVES. As described in the next section of this report, a review of internal emails in Government shows a communication to families was contemplated but not sent at that time.

(iii) Parents Learn of WAB's Conviction

On July 14, 2021 a family member on behalf of the victim filed a civil suit against WAB and the YDE, which was subsequently reported by the CBC on July 16, 2021. This was how parents learned of WAB's conviction.

As noted at the outset and discussed in more detail in the Factual Findings below, parents were universally outraged to learn abuse had taken place at HVES about which they knew nothing. Many wrote to Government upon learning of the WAB matter demanding to know why they had not been informed and advocating for supports to be provided to the HVES community.

(iv) Identification of Additional Victims and RCMP Ongoing Investigation

Since the CBC publicized WAB's conviction, two other victims have come forward with allegations against WAB. To date, seven additional charges have been laid against him, and criminal proceedings in respect of these charges are underway.

(v) Response to Publication About WAB in Government

It was not until August 11, 2021 that YDE sent out a communication to all parents and guardians of HVES students, assuring them HVES is a safe environment for their children to learn, setting out applicable legislation and contact information for various services. With respect to its handling of the WAB matter, YDE wrote at that time:

Unfortunately, in 2019 an employee chose to abuse their position of authority and trust with a student while in the school. This individual was criminally charged, convicted, and sentenced for his actions. We recognize that you and other families have many questions about recent reports concerning this former employee. We take all concerns involving the safety of our students very seriously. While protecting the safety of students we are also obligated to respect a victim's privacy rights.

When this matter came to the attention of Hidden Valley's school administration in 2019, they informed the RCMP, who commenced an investigation (and it is our understanding the RCMP have opened further investigations). In addition, as soon as the school administration and department officials became aware of the allegation, they immediately ensured that the individual was no longer allowed to work with students at Hidden Valley or in any Yukon school. This was an important step to ensure the safety of our students and protect them from this individual.

With respect to the supports, YDE indicated as follows:

Supports will be in place for the start of the school year

The Department of Education acknowledges the impact this situation is having on the school community. We are committed to ensuring that students have access to appropriate supports at school. We will provide and continue to promote additional supports for students when they resume school later this month, and can help refer families to supports that may be needed by parents/guardians at home. Support persons will be available at the school prior to and during the first days of school.

In addition, we are working with our partners at the Departments of Health and Social Services and Justice to determine the needs, identify and provide the most appropriate supports for families and students, and make referrals when Department of Education supports are not best-suited to assisting students or families.

No apology for YDE's handling of the matter or acknowledgement that the matter could have been handled better was offered at that time.

On September 22, 2021, YDE hosted a meeting with families at HVES attended by representatives from the RCMP, Public Prosecution Service of Canada, and the Departments of Justice and Health and Social Services. A technical briefing followed the next day.

Letters were also jointly sent by current and former Ministers of Education Jeanie McLean and Tracy-Anne McPhee to parents and guardians of students at HVES on September 24 and October 6, 2021.

(vi) Public Apologies by Public Officials

In these letters and publicly, YDE acknowledged it should have worked more closely with the RCMP to contact families with students who had regular direct contact with WAB. YDE expressed "deep regret" over the fact that it "didn't find a way with the RCMP to communicate

in a targeted and discreet way to other families that also upheld privacy legislation and later the publication ban.”¹

Following the September 21, 2021 meeting with parents, Deputy Minister of Education Nicole Morgan stated YDE “fully acknowledges the trust of families at Hidden Valley School was broken” and that “we heard clearly from families last night that we have failed them. For this, we are sorry.” Morgan similarly expressed regret for not finding a “targeted and discreet way” to inform parents of the criminal proceedings against WAB and apologized for the delay in getting families information and supports.²

Both Ministers McLean and McPhee have similarly apologized for the YDE’s failure to communicate with the HVES school community, including in the aforementioned September 24 and October 6, 2021 letters. In the letter, Ministers McLean and McPhee acknowledged it “was a mistake that other affected parents were not made aware of the situation and that steps could have been taken at that time to better inform and support families”, and that they “apologize for this and acknowledge the stress being experienced by the Hidden Valley school community.” The Ministers indicated “[we] can and will do better as we move forward.”

RCMP Chief Superintendent Scott Sheppard publicly apologized on September 23, 2021 for the RCMP’s failure to conduct a fulsome investigation into WAB upon the initial allegation.

(vii) Various Concurrent Review Processes

Concurrent with these public acknowledgements that the WAB matter was mishandled, three separate investigations in addition to this independent investigation are underway to report on the WAB matter:

- As previously noted, the RCMP is conducting an internal review, the preliminary findings of which were provided to parents during the parents meeting held in November, 2021.
- Yukon Child and Youth Advocate, Annette King has undertaken her own public review of policies, protocols and actions in respect of the HVES incident which is being released in stages.

¹ Hong, J. (2021, September 23). *Yukon RCMP, Education Department admit error, apologize for handling of school sexual abuse case* | CBC News. CBCnews. Retrieved January 23, 2022, from <https://www.cbc.ca/news/canada/north/yukon-rcmp-education-apologize-hidden-valley-1.6187387>

² Hong, J. (2021, September 23). *Yukon RCMP, Education Department admit error, apologize for handling of school sexual abuse case* | CBC News. CBCnews. Retrieved January 23, 2022, from <https://www.cbc.ca/news/canada/north/yukon-rcmp-education-apologize-hidden-valley-1.6187387>

- Yukon Ombudsman Diane McLeod-McKay has also announced she will investigate “whether the Department of Education had an obligation to inform the parents or if a law prohibited this communication, including the effect of a court-imposed publication ban.”³

(viii) Review Process, Timeline, and the November 9, 2021 Meeting with Parents

Throughout the review process, I found YDE responsive to requests for documents and proactive in providing documents I needed to conduct this review. Documents provided include internal Government emails, documents, and drafts related to the WAB matter.

In addition to reviewing these documents, I interviewed numerous Government employees across departments including employees at HVES between October 19 and October 22, 2021 in Whitehorse, Yukon.

On November 9, 2021, I attended a meeting with parents of students at HVES. Attendees included Minister McPhee, Minister, Deputy Minister Nicole Morgan, RCMP Chief Superintendent Scott Sheppard amongst others. Many of those attendees spoke. Government officials provided parents with a package of documents called “Making it Right” which included an FAQ section, information about relevant community services, and a draft communications policy setting out various incidents that could arise in schools and the appropriate level of detail and audience for each type of incident depending on the severity.

Chief Superintendent Sheppard shared a verbal summary of the preliminary findings of the RCMP’s internal review to its investigation of WAB, which included a report that there had been an earlier “concerning” incident involving WAB and a different student sometime between 2014 and 2018 that was “handled internally by the school” at the time. The timeline provided indicates the RCMP only became aware there were additional victims when the second victim’s family came forward following release of the CBC story in July 2021.

Following that meeting, I interviewed numerous parents of students at or formerly at HVES, interviewed Minister McPhee, Deputy Minister Nicole Morgan, Chief Superintendent Sheppard, YTA President Ted Hupe, and former Government employees involved in this matter. Due to the worsening COVID-19 pandemic, these interviews were all conducted via web conferencing or telephone.

³ Gilck, T. (2021, October 26). *Whitehorse Daily Star: Ombudsman to Investigate School Controversy - Whitehorse Star - Whitehorse News*. Newslocker. Retrieved January 24, 2022, from <https://www.newslocker.com/en-ca/region/whitehorse/whitehorse-daily-star-ombudsman-to-investigate-school-controversy-whitehorse-star/>

(ix) WAB Matter Becomes Highly Politicized

Since the WAB matter first went public, the Government's response has become the subject of much debate and questioning in the Legislature and much press coverage.

This includes an October 27, 2021 motion calling for Minister McPhee to resign over her role in the WAB matter – which was supported by a majority of the Legislature – and a confidence motion over the Government's handling of the WAB matter on November 24, 2021, which confirmed the Government's support in the Legislature.

Also, a second lawsuit against the Government and WAB was filed on October 1, 2021.

C. FACTUAL FINDINGS AND RECOMMENDATIONS ARISING FROM REVIEW

I want to acknowledge and thank all those who spoke with me during this review for their candor and participation. These were difficult circumstances for all those involved. Hearing from those directly impacted helped me formulate recommendations I believe necessary to ensure that should the need arise to navigate a similarly serious situation in future, Government employees will have the appropriate guidance about what needs to be done and who is responsible for making decisions.

After interviewing all relevant parties and reviewing related documents including applicable legislation, I have come to the following factual conclusions and make the following recommendations arising from those conclusions.

1. Parents are Outraged Over the Government's Handling of the WAB matter

An essential component of this review was speaking with parents impacted by the Government's failure to communicate with them upon learning of the initial allegation against WAB, and its delay in responding to their concerns once they much later learned of the abuse through the media. As noted at the outset, families expressed outrage at the Government's lack of communication with them.

I was told by parents the Government's failure to inform about WAB left them feeling the matter was not being taken seriously, that the Government did not care, or that it was trying to downplay or conceal its actions. The absence of information before public dissemination of WAB's conviction in 2021 meant that parents did not have the opportunity to make inquiries with their children and/or to provide them with support in a timely way if they were, in fact, impacted by WAB's actions. For the parents of victims later identified, and those who suspect abuse may have occurred but whose kids lack sufficient memory now, this is especially painful.

One parent summarized this experience in a letter to Government as follows:

Our experience at Hidden Valley is a short one, the reasons which I can get into if you are interested, but also one that had my youngest in the same classroom as WAB for the *entire time she was a student there*. I, like most other families, didn't find out about the abuse until the CBC news this summer but because we are no longer a part of Hidden Valley's school community we were forced to do all of the 'could it be?' questioning on our own until WAB's name was officially released. At that point it again was on us to inform the Department that if they were following through with families that they had forgotten (neglected perhaps?) families of students who were no longer attending Hidden Valley. We have since been included in the meetings but I have no idea what we haven't been included in. I have also received a letter from the Department in response to reaching out to them stating that "Presently, our schools do not have a mechanism for targeted communications to former students and their families." Which is, in my opinion, horribly unacceptable and also begs the question about whether they have done their due diligence on this issue and have contacted families like ours that have NOT reached out to them.

Parents expressed anger that it took YDE three weeks to send out a communication to families following publication of WAB's conviction. This anger was amplified by the fact that, when Government did finally respond, parents felt the supports promised were not provided and that immediate and accessible counselling in the schools and guidance to parents on how to speak with kids about potential sexual abuse was needed. Parents also felt the explanations of YDE as to why they were not informed earlier were insufficient.

YDE directed families to Project Lynx which is a Child Advocacy Centre initiative in Yukon that coordinates a team of multi-disciplinary interagency partners in the delivery of services to children/youth. There were mixed views about Project Lynx in my interviews with parents. Some parents had positive experiences. The majority, however, felt the services were not fully "wrap-around" and fell short of the guidance and supports that ought to have been provided to the school community.

It is fair to say parents' frustration with Government mounted during the November 9, 2021 meeting. Many commented on the lack of time they were given to review the documents provided to them – which arrived in their email boxes only about two hours before the meeting. There were also many technical difficulties, with the meeting being incorrectly set up, and participants ultimately being provided a new link for a different meeting. These technical glitches exacerbated parents' feelings that the Government was not taking this matter seriously.

Also, many were upset by what they felt was an inordinate amount of time as monopolized by Government officials – most notably Minister McPhee – during that meeting, which resulted in their own time to speak during the meeting being truncated at the end. Additionally, several parents expressed distaste for the title "Making it Right" – which they felt, quite frankly, could never be done given the irreparable harm caused by child abuse – and which some believed

represented the YDE's focus on smoothing things over politically rather than actually assisting parents and their families during this difficult time.

Some parents felt particularly strongly about comments made by Minister McPhee during this meeting, which included that it would have been inappropriate for her to be in touch with the RCMP about the WAB matter. Several commented this was precisely Minister McPhee's role, given her oversight of both the Departments of Justice and Education.

Many parents have called for Minister McPhee, and some Deputy Minister Nicole Morgan, to resign from their positions because they feel either, or both, did not discharge their duties to the required standard of care. Other parents put blame on the administrators of HVES, who some felt should have sent out a communication directly to parents regardless of the direction of the YDE.

2. Parents' Anger is Justified. Government's Response to WAB Matter was Inadequate

It is understandable the HVES school community is upset given the inadequacy of the Government's response in this case. In short, Government ought to have more proactively and thoughtfully responded to the WAB matter.

(i) A Communication Ought to have Been Issued and Better and Earlier Supports Provided

In my view, a communication ought to have been sent to parents by the YDE earlier than it was.

Government's duty to provide information to the public is recognized in General Communications Policy 1.3 in its General Administrative Manual ("GAM"):

1.4.1. The duty to inform

The Government of Yukon has a responsibility to inform citizens of its plans, programs, services and activities and to respond to questions about government decisions on matters of public interest.

...

1.4.3. A responsible public service

Communications is a critical component of all government activities and an integral part of planning and delivering programs and services. The Government of Yukon is committed to accessible, impartial, accurate, responsible and timely communication.

A review of disclosed documents reveals communication with parents was contemplated by YDE immediately upon learning of the allegation against WAB and that advice was sought by YDE Communications staff on what information could be shared with staff and the wider school

community on at least a couple of occasions.⁴ Indeed, YDE Communications drafted a letter to parents on Friday December 13, 2019 which was sent to the Public Service Commission (“PSC”) for review. PSC’s initial comment upon review was that it did not have ‘any concerns with messaging as it will be standard response to a situation under investigation and before the courts...’ but that “the one item EDU wanted to check...was whether we can say that the employee is not working as a result of the investigation...”.

On Monday December 16, 2019, PSC advised it was having the draft communication reviewed by the DOJ, to which YDE Communications responded that the RCMP had advised there may be a publication ban and that there accordingly “may not be anything we say” but that it was “still good to know if we go this route”. The draft communication was forwarded to a DOJ lawyer, who advised that the YDE Communications Analyst would “be trying to make contact with the Crown prosecutor assigned to the file to find out when the first appearance would be and whether a publication [ban]” would be sought. The DOJ’s advice continued:

In general, once there is any public announcement of the charges, I think the best course is simply to say that the Department of Education is aware of the charges and is cooperating fully with the RCMP investigation. Once could safely go on to say that the staff member will not be on duty at the school while the criminal charges are before the courts.

Shortly following, the draft communication with edits suggested by the DOJ was returned to YDE. These edits included the comment that “[i]f the name of the school makes it into the public reporting of the charge, then it likely wouldn’t be covered by the ban. If it doesn’t, we should be careful about whether identifying the school can identify a victim. We can always use the generic “Department of Education employee.”

This statement overlooked the fact that the draft communication was written specifically *for* the parents/guardians of students at HVES, and for the purpose of notifying them about a school event – not as a response to information publicized about WAB and not for general public consumption. Although the DOJ suggested amendments to the draft communication, its viewpoint appears to have been that a letter to parents was not advisable since the allegation against WAB had not yet been proven and due to concerns about identifying the victim or compromising the RCMP investigation. It is also clear, as noted, that the DOJ vetted the draft communication with a lens to what the Government could say *publicly* about the WAB matter, and not to what could be communicated to families of students at the school. There does not appear to have been any discussion about the audience for the communication, although the draft makes clear it is a letter to parents and guardians associated with HVES from the HVES principal.

⁴ The RCMP confirms a discussion between RCMP Communications and YDE on November 25, 2019 in its Preliminary Findings of its internal review of its handling of the WAB investigation.

Ultimately, a communication was not sent out at that time, nor was the YDE's decision not to inform parents about WAB in December 2019 ever revisited, even after WAB pled guilty and was convicted in February 2020.

The reasons for that are many. There were systemic causes including a lack of coordination and consultation with departmental leadership, and absence of policies and training to guide those responsible on how to appropriately address the issue or who needed to be involved in decision-making about the response. Adding to these systemic issues – which are discussed more below – the COVID-19 pandemic forced education in Yukon and across Canada online in March 2020, burdening an already stretched YDE to design and implement an entirely new system of learning across the Territory during a global health emergency.

While none of these explanations justify the Government's inaction, they do assist in understanding why things went so wrong in respect to its handling of the WAB matter and thus inform the recommendations for how to ensure responses to such events are more robust and timelier in future.

(ii) Communication With Parents Not Prohibited by Law

It is important to note that there was no impediment to the YDE putting out a communication to the school community when initially contemplated advising that:

- a serious allegation had been made against a staff member of the school
- the RCMP is investigating
- the staff member has been removed from school and placed on an unpaid suspension pending the outcome of that investigation
- parents may be contacted by the RCMP as part of that investigation.

As discussed, I find parents ought to have been informed of the WAB matter and should not have learned of it through media reports as was the case.

Certainly, the HVES school community ought to have been informed after WAB pled guilty in February 2020. While parents have no explicit right to this information under the *Education Act*, the YDE, in my view, had a responsibility to inform parents of this serious incident and to provide the school community with counselling and resources for talking with their children about sexual abuse.

Access to Information and Protection of Privacy Act, RSY 2002, c. 1 ("ATIPPA")

Section 19 of *ATIPPA* prohibits a body from disclosing personal information about individuals "beyond the amount that is reasonably necessary for the public body to carry out the purpose to which the use relates" and "for longer than the period that is reasonably necessary to carry out the purpose to which the use relates."

Personal information is defined under *ATIPPA* as:

...recorded information about an identifiable individual, including

- (a) their name,
- (b) their home, mailing or email address or phone number,
- (c) their age, sex, gender identity or expression, or sexual orientation,
- (d) their skin colour, fingerprints, blood type or any other genetic characteristic or biometric information,
- (e) their race, ethnicity or nationality,
- (f) information about their current and past physical or mental health, including their personal health information,
- (g) information about their marital, family, education or employment status or history,
- (h) information about their current or past
 - (i) political or religious beliefs, associations or activities,
 - (ii) amounts or sources of income, or
 - (iii) income tax returns,
- (i) information about
 - (i) an asset that they wholly or partially own or owned,
 - (ii) a liability for which they are or were wholly or partially liable,
 - (iii) a transaction or banking activity in which they are or were involved,
 - (iv) an assessment of credit-worthiness of which they are or were the subject,
 - (v) a discretionary benefit in the nature of income assistance, legal aid or another similar type of benefit that they are receiving or have received, or
 - (vi) a law enforcement matter of which they are or were the subject,
- (j) a personal unique identifier that has been assigned to them,
- (k) another individual's opinion or view about them, or
- (l) their opinion or view about something other than their opinion or view about another individual;

None of the information in the communication suggested above could, in my view, be reasonably construed as personal information protected from public disclosure. In any event, Section 21(d) of *ATIPPA* recognizes a public body may disclose personal information without authorization when the use is necessary for the public body "(i) to prevent or reduce a serious threat to public health or safety, or (ii) to protect the health or safety of an individual." Further, I note that Section 83 specifically authorizes disclosure of information in the absence of a request in cases where significant harm may result if information is not disclosed.

In my view, a targeted communication to parents was not prohibited under *ATIPPA*.

Publication ban

The *Canadian Victims Bill of Rights*⁵ gives every victim the right to have their privacy taken into account by authorities in the criminal justice system and to ask that their identity be protected. Certainly, victim's privacy and the integrity of the criminal justice process are important

⁵ SC 2015, c. 13

considerations that must be weighed in any disclosure decisions involving sexual abuse of a minor.

The Government of Canada describes a publication ban as follows:

A publication ban is an order the Court makes that prevents anyone from publishing, broadcasting, or sending any information that could identify a victim, witness, or other person who participates in the criminal justice system. The publication ban is intended to allow victims, witnesses, and others to participate in the justice system without suffering negative consequences.⁶

Publication bans are intended to prohibit media from reporting the names of individuals involved in criminal justice proceedings, restricting those involved from communicating with the media, and anyone from publishing information that might identify the victim of a particular crime—including by making information public on social media. Ordinarily, a publication ban is in force until criminal proceedings have concluded. Violating a publication ban is a criminal offence.

Although a publication ban could certainly reasonably have been contemplated given the nature of the allegations against WAB, it does not appear one was in place until around December 18, 2019. While a publication ban was certainly an important and valid consideration in respect of what the Government could say about the WAB matter publicly, it did not, in my view, restrict Government from informing the HVES school community that an allegation of criminal conduct had been made against a staff member and that the staff member was no longer working at the school while the investigation was ongoing. Nor, did the publication ban prohibit YDE from working in conjunction with the RCMP to send a targeted communication to parents and guardians of children who would be contacted as part of the RCMP's criminal investigation.

Not only was no ban in place when YDE initially contemplated a communication, but it was also no longer in place after WAB's conviction – another juncture where a more detailed communication could and should have been issued to the school community more widely along with supports offered. In sum, the publication ban did not prohibit the Government from communicating with parents.

(iii) Purpose of Sending Information to Parents about the WAB Matter Was Notification Not Identification of Victims

⁶ Government of Canada, D. of J. (2021, July 7). *Publication bans*. Government of Canada, Department of Justice, Electronic Communications. Retrieved January 24, 2022, from <https://www.justice.gc.ca/eng/cj-jp/victims-victimes/factsheets-fiches/publication.html>

Although I have found YDE was not prevented from providing information to parents about the WAB matter as it unfolded, it is important to consider the *purpose* served by earlier communication to parents about the WAB matter to determine when such a communication ought to have, in fact, been provided, to whom, and what the impact was of the YDE's failure to communicate to parents earlier.

It is important to note that WAB was removed from the school immediately upon HVES being made aware of the allegation and therefore posed no ongoing threat to students. The purpose of any communication, therefore, would have been to update and inform the parents.

Earlier communication to parents would have put them on notice an allegation had been leveled against an employee in the school, the substance of which may involve other students, and into which a criminal investigation had been launched. The communication would have informed parents they may be contacted by the RCMP if there was reason to believe their child may have been directly impacted.

The responsibility for identifying additional victims of crime lies with the RCMP – not the YDE. The RCMP has acknowledged it failed to conduct a fulsome investigation into whether WAB victimized other children. In my view, the RCMP's failure to discharge its investigative responsibilities is primarily responsible for the delay in identifying additional victims and the ensuing harm caused by this delay – not the YDE's failure to notify parents an allegation had been made against WAB nor that he had subsequently been convicted.

The purpose of an initial communication, as stated, would have been to let parents know that there was an investigation ongoing, provide assurances this serious matter was being dealt with appropriately, and provide impacted families with appropriate guidance and support. The RCMP was to determine who needed to be provided with more details about WAB's criminal conduct and to be questioned as a potential witness or victim as part of its criminal investigation. The role of the YDE was simply notification. Put another way, parents' feelings of anger at the YDE for its failure to communicate with them were greatly exacerbated, in my view, by what the RCMP has publicly acknowledged as its failure to follow up with any parents or to conduct any kind of investigation into whether there were other victims.

A communication to parents could and should have been issued jointly with the RCMP in furtherance of its investigation. I note such a communication was jointly released in a more recent unrelated school incident. Certainly, better cooperation between the RCMP and YDE throughout the WAB matter would have made it more likely other victims were identified earlier. But the YDE's failure to communicate with parents cannot be blamed for the RCMP's failure to uncover additional victims earlier.

The true impact of the Government's failure to communicate with parents earlier was a lost opportunity to provide them with necessary resources to assist them in talking with their children and navigating the fear and anxiety that comes from learning your child may have

been sexually abused, or worse, that they had. It was also a lost opportunity to provide counselling to those students or parents who were impacted by WAB's predatory behaviour.

The YDE has a responsibility to the school community to minimize the harm caused by WAB's illegal conduct which included providing families of students at HVES with appropriate materials and supports at the earliest opportunity so that the healing could begin.

Additionally, the lack of transparency around families learning of WAB's conviction in relation to criminal conduct against a student at HVES has eroded the school community's trust in the YDE.

3. Government Lacked a Coordinated Approach to Addressing the WAB matter

No information discovered during this review indicated that Government's failure to communicate with families of students at HVES was motivated by a desire to conceal or cover up this information. To the contrary, I found all those involved in Government's response to the WAB matter attempted to discharge their responsibilities in good faith and did so to the best of their knowledge and abilities.

Rather, as noted, this review uncovered a lack of coordination between the YDE and other Government departments, and a failure to seek guidance from and the involvement of leadership tasked with decision-making about departmental responses.

A lot of assumptions were made. Most notably, that the RCMP was conducting a fulsome criminal investigation that would involve contacting families of students who may also have been abused by WAB as part of this investigation. This approach, however, overlooked that YDE has a responsibility to assist the RCMP in criminal investigations involving school employees and to notify parents about significant incidents in schools.

It is worth noting that from a labour relations perspective, things were well-handled. WAB was immediately removed from HVES when the abuse allegation was first brought forward in November 2019. He was placed on unpaid administrative leave until his conviction at which time his employment was terminated. In other words, as soon as the allegation against WAB was made, YDE – with the guidance and assistance of the PSC – took swift action to ensure WAB presented no ongoing threat to students.

What was lacking in this case was ongoing consideration of the information that needed to be conveyed to parents by YDE, including when and to whom information ought to be communicated. Clearly, the mere fact that the RCMP had commenced a criminal investigation did not absolve the YDE of the responsibility to communicate with parents and guardians about the matter, nor did it signal an end of the YDE's role vis-à-vis HVES families nor the RCMP.

(i) A Lack of Oversight

An incident of this magnitude with such far-reaching impacts requires highly complex decision making across Government departments and appropriate oversight from leadership to ensure Government's response is appropriate. This review revealed that advice from the DOJ and the RCMP was disseminated through YDE's Communications Department to the ADM, and that the decision not to communicate with parents about the WAB matter was made without sufficient oversight from the Deputy Minister, Minister or Cabinet.

Legal advice is just that – advice. When to follow legal advice, and when to deviate from it, seek clarification or refinement, or seek an external legal opinion, are decisions that must be made through discussion and coordination amongst Assistant Deputy Ministers and Deputy Ministers of Education and Justice, with full knowledge and input from the Ministers.

The roles and responsibilities of various Government officials are set out in the GAM General Communications Policy as follows:

2.2 Ministers

Ministers are the principal spokespeople of the Government of Yukon. They are supported in this role by Cabinet communications advisers, departmental communications staff and senior management. Ministers are responsible for announcing Cabinet-approved new or amended policies, programs and initiatives, and approving news releases announcing their departments' activities.

2.2.1 The communications adviser to Cabinet

The Cabinet communications adviser manages media and public relations on behalf of the premier and ministers. The advisor works with the Executive Council Office Communications unit and with ministers' executive assistants to ensure a coordinated approach to communications.

2.3 Deputy ministers and corporation presidents

Generally speaking, deputy ministers of departments and presidents of Crown corporations or their delegates establish communications processes and procedures, provide direction on strategic communications objectives and appoint departmental spokespeople.

2.4 Departments

2.4.1 The Executive Council Office (ECO)

The ECO Communications unit works with communications personnel throughout the government to provide corporate communications advice and support.

ECO Communications develops communications policies, guidelines, procedures, training and templates. The unit's specific responsibilities include providing corporate information online, managing the news release process and analyzing Cabinet submission communications strategies.

2.4.2 Departments, Crown corporations and agencies

Departments, Crown corporations and agencies are responsible for:

- developing and carrying out communications initiatives that are consistent with government and departmental goals and corporate communications policies;

- ensuring awareness of government programs, services, policies and accomplishments;
- integrating a strategic communications approach into regular planning and operations;
- identifying and helping to prepare departmental spokespeople, who should undertake media training and work closely with their departmental communications staff;
- following corporate procedures and guidelines;
- using the wordmark appropriately; and
- ensuring departmental websites are client focused and adhere to the web standards and corporate template.

...

2.6 Communications Council

The Communications Council is a subcommittee of the Deputy Ministers' Review Committee (DMRC).

The Executive Council Office deputy minister is the champion of Communications Council at DMRC.

The council:

- provides a forum for all government communications staff to exchange information and discuss issues; and
- responds to requests from the DMRC to undertake special projects.

2.6.1 Communications Review Committee

The Communications Review Committee is a Communications Council subcommittee and is responsible for:

- providing peer review of all communications strategies forming part of Cabinet submissions; and
- assessing whether communications strategies are appropriate and comprehensive, and making recommendations for improvements.

Despite the Deputy Minister's responsibility for establishing communications processes and procedures and providing direction on communications, as noted, it does not appear that anyone *sought* advice from the Deputy Minister or Minister on the appropriate departmental response to the WAB matter. This meant that neither the leaders of the YDE or DOJ were provided an opportunity to scrutinize the decision not to send an earlier communication, nor, as noted, were they involved in obtaining legal advice directly so that they could brainstorm in coordination with the DOJ and/or external counsel about how best to navigate the competing legal interests in play.

Rather, information disseminated upwards was limited to the Briefing Notes created for Minister McPhee in November 2019 and March 2020 respectively. Neither of these Briefing Notes contain any information about what the YDE was communicating to HVES families, nor about the legal advice the YDE had received on this aspect. Nor was there any Issue Alert created in 2019 for the Minister nor any Decision Notes seeking guidance or input about what to do. There *was* a Message Box drafted in December 2019 to help guide the Minister's responses should she be publicly questioned about the WAB matter. But like the November 2019 Briefing Note, the information within was limited to the fact that the RCMP was investigating a school employee and that the school and the RCMP were working together.

There was nothing in any of these materials indicating a decision had been made not to communicate with families or why. And of course, given that WAB's conviction was not publicized at the time, there was no opportunity for Minister McPhee to utilize the limited information provided to her in the Briefing Notes.

That being said, however, it is clear the Deputy Minister was kept in the loop about developments in the WAB matter. Not only were the two Briefing Notes mentioned above signed off by the DM, but there was also a January 19, 2020 letter to DM Morgan from Superintendent Chris Stacey setting out the background to the WAB matter including that he had pled guilty to charges for the sexual assault of a student at HVES and recommending that his employment be terminated. On March 18, 2020, DM Morgan met with WAB and an HR Representative to discuss the recommendation to dismiss WAB from employment. This recommendation was accepted, and DM Morgan issued a letter dated April 14, 2020 advising WAB his employment was being terminated.

At no time, though, does it appear that the topic of communication with families was ever raised again after initially contemplated in December 2019. Certainly, no one in YDE sought updated legal advice on whether a communication could be sent to the HVES community following WAB's conviction, nor did anyone from the DOJ or PSC raise the issue again.

Simply put, it seems the significance of this event was not recognized by those tasked with responding. In the absence of a policy and armed with what was viewed as incontrovertible legal advice, decisions were made without the Minister, Cabinet Committee and/or the Communications Review Committee or Council being notified or involved.

In hindsight, those in leadership roles ought to have more proactively inquired into the department's response. It is not surprising, in my view, that they did not, though, given the information disseminated upwards indicated that WAB had been removed from HVES and that the matter was being dealt with by the school and the RCMP. In other words, the Minister was unaware any decision had been made in respect of communication, and the limited information she was provided assured her the matter was being dealt with.

It ought to be noted that in July 2021 when the CBC story about WAB was published, YDE and DOJ did demonstrate a coordinated response with appropriate input from departmental leadership and with regular updates and communication between Assistant Deputy Ministers and legal counsel. This resulted in appropriate and reasoned responses being provided to parents and a broad notification being issued from YDE to families of HVES – albeit not until weeks after the WAB story was published.

The CBC's article about WAB's conviction was circulated within the YDE the day it was published prompting internal discussions and redistribution of the March 2020 Briefing Note that had been created for Minister McPhee at that time to inform her of WAB's conviction.

It should be noted that July 16, 2021 was the first time the Premier and Minister McLean learned about the WAB matter. Indeed, earlier Briefing Notes were not included in the Post Election Briefing Book prepared for Minister McLean after the April 2021 election.

Further departmental discussions took place on July 21, 2021 following an email from the HVES principal to the YDE inquiring into whether there was a communications strategy in respect of the WAB matter. At that time, the Assistant Deputy Minister recommended a communication to parents be drafted, and the YDE Communications Director indicated this be done and vetted through the DOJ.

The following day, July 22, 2021, YDE Director of Communications reported she had been in touch with the DOJ and that it “strongly recommended” the YDE not send out a general letter to the school community “as it could be viewed as making a statement to influence while this matter is coming before the courts.”

Despite this purported advice, YDE Assistant Deputy Minister directed a communication be drafted. This draft was circulated within the department on July 23, 2021.

On July 26, 2021 Deputy Minister of Justice and Deputy Attorney General informed YDE Director of Communications that someone from legal would be assigned to provide legal assistance to the YDE. The draft communication to parents, briefing note for the Minister, and a draft response to individual inquiries from parents were provided to the DOJ for review.

In an email dated July 27, 2021, Acting YDE Deputy Minister wrote to the DOJ “[i]an effort to wrap this up first thing in the a.m. (at the request of our Minister’s Office), I have jumped the queue and provided my suggested edits into the above docs as acting DM. Please continue to route up through DM Phelps and signal when approved.”

In an email dated July 28, 2021, assigned DOJ counsel responded to YDE’s Acting Deputy Minister (with many cc’s) suggesting amendments to these documents “for legal – as opposed to policy – concerns”. The next day, July 29, 2021, YDE sent individual responses to parents who had contacted Government, the substance of which was consistent with the DOJ’s recommended amendments. These responses included advising parents that Government was a respondent in a civil legal matter and that the RCMP had reopened its investigation, thereby limiting the response YDE could provide to families of HVES at that time.

Some things certainly could have been done better in 2021 – including a faster turn around time to respond to parents after they learned about the WAB matter. I note as another example, that it was an oversight for the HVES principal and school staff not to be provided with a copy of the letter to families sent by YDE so that they were provided information about the supports being offered to students and their families. Also, the November 9, 2021 parents meeting was not well-organized or managed. While increasing COVID-19 case counts required this meeting be shifted online at the last minute, this transition was disorganized and ought to have been handled better given the seriousness of the content. Further, parents were not

provided with enough time to review the materials sent to them just prior to the meeting. These mistakes could have been avoided, in my view, with more detailed oversight.

(ii) YDE Lacked a Clear Policy and Procedure for Incidents of this Nature

Greatly exacerbating the lack of leadership was the fact that there was no policy specifically in respect of how to deal with a criminal allegation against an employee to guide YDE employees including HVES administrators about information that should be shared, the timing of disclosure, nor about who within Government needed to be involved in decisions about this. Interviews with employees revealed that staff simply did not know what to do.

As noted, the absence of procedural guidance in relevant policies meant important decision-making in respect of how the WAB matter was handled was left to individual employees who lacked the requisite training and knowledge to be making these decisions without the input and guidance of higher-ranking officials.

Some measures to clarify who must be involved in decision-making in these types of incidents have been included in the YDE's Draft Post-Incident Communications Policy, and these are helpful in alleviating any confusion about whose responsibility it is to make sure the YDE communicates appropriately.

RECOMMENDATION #1: Implement a Policy/Process for Interdepartmental Cooperation for Significant Events and Provide Appropriate Training

As noted, no one involved in initial decision-making around whether to send a communication to the HVES community recognized the significance of this decision, nor even that there was, in fact, a decision to be made. This meant they did not involve the appropriate level of leadership in this discussion, nor did they keep leaders appropriately apprised. This is quite surprising when one considers that the PSC, the DOJ and the YDE were all involved in the Government's response to the WAB matter; yet, none of the associated Ministers were kept informed nor was information about the decision to no communicate with families brought up to Cabinet level.

The lack of coordination and information flowing between departments in respect of the WAB matter was unacceptable and contributed to the Government's inadequate response. I therefore recommend better training and guidance around the necessity for interdepartmental cooperation in similar situations, including the need to provide information and seek input from all those involved.

RECOMMENDATION # 2: Implement a YDE Policy for Addressing School Incidents Including Criminal Allegations Against Employees

Some measures to clarify who must be involved in decision-making in these types of incidents have been included in the YDE's Draft Post-Incident Communications Policy, and these are

helpful in alleviating any confusion about whose responsibility it is to make sure the YDE communicates appropriately.

I recommend this draft policy be implemented to guide YDE employees including school administrators on the response required for incidents of this nature and be modified to include the timeframe for reporting and further guidance on the type of information to provide to parents and the supports to be offered. While certainly there is no one-size-fits-all answer to each of the unique situations that may arise, having clear guidance around expected responses and a communications template will ensure appropriate notification, oversight, and coordination should a similar incident arise in future.

In so recommending, I note the YDE has a School Emergency Response Plan (“SERP”) setting out procedures to protect the health and safety of students should an emergency arise. This plan sets out in detail how staff should respond to emergencies such as fires, earthquakes, threats, medical incidents, or issues with the school building and specifically sets out communications protocols with the RCMP, other emergency services, and parents.

Although the full text of this Plan is not shared with the public to provide necessary confidentiality for student safety, I reviewed this Plan and note it includes many components I recommend be included in this new policy including guidance on who the principal should be communicating with, who will assist in drafting communications, and crisis communications samples and templates, as well as provisions pertaining to the establishment of a School Crisis team to support the physical, mental and emotional health of staff and students.

Responding to an allegation of criminal behaviour against an employee is different than the emergency situations contemplated in the current SERP and requires specific guidance. There are so many considerations in this type of situation. On the one hand, individuals have a right to be presumed innocent until proven guilty and YDE has responsibilities to protect the personal privacy of its employees and its students and to ensure fairness in its human resources processes. On the other hand, YDE has a responsibility to keep students safe and to inform parents about activities in the school.

The appropriate balance in each case will depend on the unique facts and requires expert legal analysis and input.

It would be helpful for this policy to include information about available supports to be offered and materials available to assist parents in speaking with their children about child abuse such as the information sheet created by Yukon Victim’s Services guidance which several parents told me they found helpful and which I have attached as Appendix A to this report.

(iii) YDE Lacked Adequate Orientation and Training for Employees

As the above set out policy indicates, there was, in fact, guidance in respect of the roles and responsibilities over departmental communications set out in the General Administrative

Manual. While not specific to Education, nor to dealing with sexual abuse allegations against an employee, certainly, the above-noted policy makes clear that important decisions about communications must be vetted and overseen by departmental leadership.

Consistently, though, in my interviews with civil servants in YDE, I discovered many were unfamiliar with the internal workings of government, the roles of other departments, and the circumstances whereby coordination with and input from other departments was required.

Indeed, I found Education particularly “siloeed” within Government, given that much of its leadership comes from an education background rather than a governmental one. While it makes sense for leadership in YDE with expertise in education, it makes the need for proper onboarding and training all the more important. This is especially so given the rate of employee turnover and staff movement in Yukon.

Policy 3.6 of the General Administration Manual recognizes “the importance of providing orientation to government systems, structures, and procedures within the first few weeks of employee appointment”. Specifically, 1.3.2 of the Policy sets out the components of this essential training as follows:

- articulating the values of the organization
- providing an overview of the entire operations of government functions, and processes
- providing an overview of policies which are in place
- providing an overview of resources and information sources which are available
- providing an overview of departmental goals, objectives, systems, and structures
- providing an overview of goals, objective, systems, and structures related to the work unit and position

Despite the recognition in the GAM of the importance of providing orientation to employees on government systems, structures, and procedures, many Government employees I spoke with indicated they felt this process was inadequate.

RECOMMENDATION #3: Provide Better Training for School Administrators and Better Onboarding of Government Employees

I therefore recommend orientation for school administrators and YDE employees be enhanced to ensure employees have an appropriate level of understanding of the roles of various departments and need for coordination between departments as well as how to ensure appropriate input and oversight from those in positions of leadership. This onboarding ought to include Deputy Ministers and Ministers, as well as appropriate training for Ministers on their departmental leadership responsibilities.

(iv) YDE Schools lack appropriate databases for targeted communications with former students and their families and tracking EA assignments

In addition to a lack of policies around communication and decision-making, this review discovered deficiencies in school-level record keeping in respect of former students that made identification and communication more challenging, as well as lack of records in respect of EA assignments resulting in an impediment to identifying victims in a timely manner.

A clear policy governing the exchange of information between the RCMP and the YDE and training on this policy would have been helpful in clarifying the flow and exchange of information between them and assisted in the identification of additional victims earlier.

RECOMMENDATION #4: Ensure computerized databases in all Yukon school are capable of easily identifying families of students both past and present and information about EA assignments.

(v) Important Information was not exchanged between the YDE and the RCMP during the initial WAB Investigation

While the RCMP and HVES appear to have worked together at the very initial stage of the investigation, communication between them soon became non-existent until the reopening of the WAB investigation in 2021.

A lot of finger pointing is going on in respect of this point. The RCMP takes the position the YDE ought to have provided it information about students WAB worked with directly. And it should have. But the RCMP also did not ask for it. It should have.

There is a factual discrepancy I am unable to resolve about what information was provided to the RCMP about the potential for other victims early on in its investigation because I do not have access to the RCMP's records. In the course of this review, the RCMP would neither confirm nor deny it was told of a belief that there were other students victimized by WAB. From the RCMP's perspective, it does not matter if a suspicion was revealed or not, since the RCMP had a responsibility to investigate the possibility that other children had been victimized regardless of whether others suspected this or not.

Certainly, there is no evidence the RCMP asked for additional information from the YDE prior to reopening its investigation into WAB in July 2021, nor is there any evidence that YDE disclosed any information about other students or parents to the RCMP before then. At that time, the RCMP reports YDE staff requested the RCMP obtain a warrant for the information it sought rather than voluntarily handing it over to police at their request.

It should be noted that although HVES did not provide parental contact information or names of students who may have been impacted by WAB's actions prior to 2021 when requested by

the RCMP, HVES *did* provide the RCMP with files discovered in or around March 2020 on a computer utilized by WAB, which included numerous articles about sexual relationships with children.

As already noted, *ATIPPA* does not prevent a public body from disclosing personal information without the consent of an individual to police to assist in an investigation. Again, a clear policy guiding Government employees in respect of what information can be disclosed to the RCMP in this context would help clarify any misunderstandings in this regard.

(vi) Role of YDE in RCMP Investigation

My review did not uncover any active attempt on the part of HVES or YDE to conceal information from the RCMP at any point during the investigation. Rather, it seems, in the absence of a policy setting out the type of information to be provided to the RCMP in this situation, and because the RCMP never requested this information, HVES and the YDE did not proactively come forward with information to the RCMP.

To be clear, I do not fault the HVES principal for the lack of information initially forthcoming from the YDE. I note he was relatively new at his position, and that the Superintendent at the time responsible for HVES did not provide the requisite guidance or support expected of his role. Decisions about disclosure of confidential information required legal advice from the DOJ and, in the absence of a clear policy and guidelines for YDE employees around this, most certainly ought not to have been made unilaterally at the school level. Rather, the YDE's failure to disclose relevant information to the RCMP similarly flows from a lack of leadership and coordination from those in higher levels of the civil service, and

I find Minister McPhee's statement to parents that it was not her role to insert herself in the RCMP's investigation perplexing, given her dual role at the time as Minister of Education and Minister of Justice. While optically, given Minister McPhee's role as Minister of Justice at the time, it may not have made sense for her to reach out to the RCMP directly on this, certainly it would not have been improper for her to follow up with the YDE Deputy Minister to ensure YDE was doing everything it could to assist with the investigation and to discharge its responsibilities to parents and the public.

**RECOMMENDATION #5: Develop and Implement a Policy in Cooperation with the RCMP
Re: Information Sharing the Process for Working Together in the
Event a Serious Allegation of Criminal Conduct is Levelled
Against an Employee Arising from or with a Sufficient Nexus to
their Employment**

In addition to the foregoing, I recommend a policy be created clearly setting out the information to be shared by the YDE with the RCMP and the type of collaboration necessary between the two entities in such situations.

This recommendation can be implemented through creation of a new policy or by revision of the Inter-Agency Agreement for the Investigation of Child Abuse, an existing protocol between the Department of Health and Social Services, Public Prosecution of Canada, the DOJ, the YDE, and the RCMP.

While this Agreement recognizes the need for collaboration between these agencies at all stages of investigating child abuse, at present, it does not set out the role of YDE specifically, and what information it is required to share with the RCMP in instances of child abuse in a school. This guidance is crucial to ensure the appropriate flow of information in a timely fashion and to discharge YDE's responsibility to assist the RCMP in its investigation.

4. Other Contextual Factors Played a Role in Government's Response to the WAB Matter

In addition to the factors outlined above, there are other contextual factors worth noting that most certainly played a role in the Government's response in this instance.

(i) The Covid-19 Pandemic

The emergence of the COVID-19 pandemic in March 2020 meant the YDE was suddenly required to move public education across the entire Territory into an online format on short order. This was, of course, an enormous and unprecedented project, and it is hardly surprising that other matters related to education were overlooked at this uncertain and unusual time.

(ii) Employee Turnover

Another contributing factor worth noting is that key employees, including the Director of YDE's Communications, turned over during the relevant period. The RCMP, too, lost its internal Communications employee around this time. HVES has had four different Superintendents in the time since the WAB allegation was first made.

As already noted, retention of Government employees in Yukon is an ongoing challenge and one that underscores the need for clear and consistent policies for employees to follow and appropriate training so that newer employees in positions of responsibility know what is expected of them and what to do in situations they may not have previously encountered.

5. HVES Administrators Had a Duty to Report What is Now Known to be a Prior Incident of Abuse and to Document the Event

As reported to parents at the November 2021 meeting by RCMP Chief Superintendent Scott Sheppard, there was an earlier incident in or around the 2014-2015 school year involving WAB and another student at HVES discovered by a teacher and reported to the principal at the time – who I note is not the current principal of HVES.

This earlier incident was also uncovered during interviews conducted as part of this review. Although not clear from Chief Superintendent Scott's description, certainly, it was clear to me that no one at HVES recognized this incident as child abuse at the time. While the principal's failure to report this incident to authorities was certainly problematic – and violated her duty to report suspected child abuse given the facts of the situation – I cannot find that there was any intent to cover up or minimize abusive conduct. Rather, there was a mistaken exercise of discretion when the teacher and principal collectively accepted WAB's explanation about why he was found alone with a child in suspicious circumstances and did not report the incident to authorities. Playing into this inability to detect the abuse was the fact that WAB was provided so little training for his work as an EA, had limited experience with children, and spoke English-as-a-second language.

This was a fundamental breach of the principal's duty to report. Indeed, every person who has reason to believe a child needs protective intervention is required by law under Section 22 of the *Child and Family Services Act*, SY 2008 c. 1 (the "Act") to report the information on which they base their belief to the police. Sections 168 and 169 of the *Education Act* also outlines teachers' and principals' duty to report to their supervisor any conditions that could affect the health and safety of students. Additionally, YDE Policy 9.11 specifically sets out the requirement that YDE employees must report suspected abuse or neglect to Health and Social Services and places responsibility on principals to review the procedure annually with staff members.

In cases where an administrator is unsure whether there is abuse, but there are signs abuse could be taking place, such as was the case in the earlier incident involving WAB, YDE staff must report this to the appropriate authorities and allow those with sufficient expertise and authority to discern whether or not abuse is taking place. Section 22(4) of the *Act* specifically states that no action for damages may be brought against a person for reporting information about suspected abuse unless the person knowingly reports false information.

Not only was this earlier incident not reported to the proper authorities, but no record of what was discovered was kept in WAB's personnel file or anywhere else in the school records. This meant the subsequent principal of HVES had no knowledge of this earlier incident and lacked context and information that would have greatly assisted the RCMP in its investigation. While there is no guarantee WAB's criminal behaviour would have been identified as such if this incident was reported at that time, certainly, documentation of this event would have assisted in earlier identification of additional victims.

RECOMMENDATION #6: Ensure School Administrators, Teachers and Staff are Provided Training in Respect of Their Duty to Report and Document Suspected Abuse on an Annual Basis

To ensure incidents of child abuse are properly recognized, reported, and documented, I recommend training on the obligation of staff to report all suspicious behaviour be given to all YDE employees every year. This training ought to include identification of grooming behaviours

and normalize mandatory reporting of *all* potentially concerning incidents – even if an employee themselves do not believe abuse has occurred.

6. A Lack of EA Training in Special Education Contributed to WAB’s Access to Vulnerable Children and the Concealment of his Criminal Behaviour

As indicated earlier in this report, WAB was subjected to a criminal background check when hired and there were no red flags on his record that would have prevented his hiring. However, WAB had only the minimal credentials for the position (completion of grade 12) and no specific training on working with children with special needs.

It is clear WAB’s lack of training and the way EAs are utilized within the Yukon public education system played a role in his ability to avoid detection. I have already indicated that the earlier incident involving WAB was not recognized as abuse at the time because the teacher believed his conduct could be explained in part by his lack of experience and training. Of course, if WAB *had* received training which included the inappropriateness of being alone with a student in a confined space without anyone else being made aware, this explanation would not have made sense.

Perhaps more fundamentally, though, were the concerns raised by parents that children in the public school system in the Yukon with special needs are being removed from classrooms too frequently as a result of poorly trained EAs who simply do not know what else to do. I heard these concerns from parents of children with special needs – who worried about their child missing out on learning – and those with children without special needs, being impacted by this approach because classroom content must be repeated for special needs students pulled out of class.

The lack of individual learning plans for students with special needs was identified as “particularly troubling” in the Yukon education Auditor General report issued in 2019 “Students with special needs are also not being well-served.”⁷ As part of that review, the office of the Auditor General looked at individual education plans, finding only two of the eighty-two plans reviews had the required progress reports and just five were updated as required. The report makes seven recommendations to the YDE aimed at addressing gaps in student performance and outcomes and developing more inclusive classrooms.

⁷ Government of Canada, O. of the A. G. of C. (2019, June). *Kindergarten through grade 12 education in Yukon-Department of Education*. Kindergarten Through Grade 12 Education in Yukon-Department of Education. Retrieved January 24, 2022, from https://www.oag-bvg.gc.ca/internet/English/yuk_201906_e_43400.html

Following issuance of the Auditor General report, YDE engaged Dr. Nikki Yee to conduct an independent review of inclusive and special education in Yukon and make recommendations to improve the system. That report was released in June 2021, and found, amongst other things, found that school staff lack specialized training and knowledge about special education and a lack of resource and funding for supports for students with special needs.

While it is beyond my mandate to make recommendations about how to improve education for students with special needs, I observe that issues identified by the Auditor General and Dr. Yee also contributed to WAB's access to children and to his ability to avoid detection. I therefore recommend the YDE continue its efforts to fully implement the recommendations in those reports to address these concerns.

RECOMMENDATION #7: Fully Implement the Recommendations set out in the 2019 June Report of the Auditor General of Canada to the Yukon Legislative Assembly and in Dr. Yee's Review of Inclusive and Special Education

D. SUMMARY OF RECOMMENDATIONS

Below is a summary of the recommendations set out in this report:

1. Implement a Policy/Process for Interdepartmental Cooperation for Significant Events and Provide Appropriate Training
2. Implement a YDE Policy for Addressing School Incidents Including Criminal Allegations Against Employees
3. Provide Better Training for School Administrators and Better Onboarding of YDE Employees
4. Ensure computerized databases in all Yukon school are capable of easily identifying families of students both past and present and information about EA assignments.
5. Ensure School Administrators, Teachers and Staff are Provided Training in Respect of Their Duty to Report and Document Suspected Abuse on an Annual Basis
6. Develop and Implement a Policy in Cooperation with the RCMP Re: Information Sharing and Setting Out the Process for Working Together in the Event a Serious Allegation of Criminal Conduct is Levelled Against an Employee Arising from or with a Sufficient Nexus to their Employment.

7. Fully Implement the Recommendations set out in the 2019 June Report of the Auditor General of Canada to the Yukon Legislative Assembly, Especially Those in Respect of Inclusive Education for Students Who Have Special Needs

E. CONCLUSION

I would be remiss if I did not express my appreciation and thank all those who participated in this review and whose thoughtful observations and candid comments helped inform the recommendations set out in this report.

In my view, there is no one person to be held responsible for the Government's failure to communicate with parents earlier. Assumptions and mistakes were made that impacted how the WAB matter was handled. Unfortunately, we cannot undo time. The best we can hope for is to learn from these mistakes and ensure better processes are put in place to ensure families' trust and confidence in the public education system and its ability to educate children and keep them safe while at school is restored.

Indeed, while nothing can ever be done to undue the harm caused by WAB's actions, my hope is that implementation of the above recommendations will improve the way incidents like this are handled in future and will ensure parents are appropriately informed and supported.



Amanda Rogers, Independent Reviewer