

It's time to break the silence

**Creating meaningful access to
rights and advocacy services for
young people in care in Ontario**

By Matthew Geigen-Miller

DEFENCE FOR CHILDREN INTERNATIONAL-CANADA
TORONTO 2003

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CREATING MEANINGFUL ACCESS TO RIGHTS AND
ADVOCACY SERVICES FOR YOUNG PEOPLE IN CARE
IN ONTARIO

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Toronto 2003

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By Matthew Geigen-Miller; foreword by Les Horne

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Foreword

By Les Horne, Executive Director
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Hopelessness is the most destructive feeling I know. The Advocacy Office in Ontario developed out of a movement to combat hopelessness. We called hopeless children “Hard to Serve”. We found them in jails, in hospitals, in treatment centres, and schools. The one thing they had in common was that nobody would or could help them. They re-offended, they got sicker, they ran away, and they frustrated everyone who tried to care for them. Their families had lost hope that they would change and had little faith in the system that failed them. “Incorrigible” or “Untreatable” were favourite adjectives to describe them.

I was the first provincial Child Advocate, beginning in 1978. In those days advocacy meant sitting in a gloomy meeting with a group that had exhausted all its familiar resources and lighting a spark of hope by changing definitions, by introducing new resources, and by getting people to think outside the box.

It was happening everywhere across the province of Ontario. The Minister of Community and Social Services was Keith Norton. He is now Chief Commissioner of the Ontario Human Rights Commission. George Thomson was Deputy Minister. Under his leadership the *Child and Family Services Act* was written. There was a strong conviction that Ontario owed every child and young person the right to develop to his or her full potential and that no one was a throw-away.

It was the *Child and Family Services Act* that legislated the Office of Child and Family Service Advocacy (Advocacy Office) and established the right of children in care to contact an Advocate. That was

an important step for a sector of the population which, because of its vulnerability, requires special care and protection. We went forward carefully then, as though we were in a minefield, but our confidence grew and the Advocacy Office grew. All residences licensed by the Ministry were required to post information to the children about the Advocacy Office. Every new child admitted was to be informed of the right to access the services of the office.

The rights of children and youth were high on the international agenda, too. In November 1989 the United Nations General Assembly adopted the text of the Convention on the Rights of the Child. There was excitement around the globe. One by one the nations rallied to ratify the Convention. It broke all records for the speed at which it received the necessary number of endorsements, the instruments of ratification which entered it into force. I remember the day when Charles Beer, Minister of Community and Social Services in the Peterson Government, raised a copy of *Children Have Rights Too!*, an annotated version of the Convention, in the Ontario Legislature and was greeted with applause from all sides of the House.

Article 12 of the Convention assures “to the child who is capable of forming his or her own views the right to express those views freely in all matters concerning the child....” The flow of information is vital. The right of the child to be heard will help nobody until the child knows it is available. The right of the child to be heard is useless unless there is somebody to listen.

Matthew Geigen-Miller has done us all a great service by researching and writing *It's Time to Break the Silence*. We have sat through hours and hours of testimony in a

series of inquests on the deaths of children and youth who died in care, in situations where their rights were not respected and where nobody was listening when they cried for help. Five juries sat through these inquests and made their recommendations but the evidence to date is that almost nobody listened.

We heard voices speaking on behalf of institutions and organizations but we rarely heard any voice from the children themselves. Not until the inquest into the death of Stephanie Jobin, in November 2002, when a group of young people in care joined together under Matthew's leadership and instructed Suzan Fraser, a dedicated legal advocate in the field of children's rights, to represent them in the coroner's court.

The case for listening to children is more than proved. I agree with the young people who participated in the Stephanie Jobin inquest that they have an invaluable contribution to make to the system of care in Ontario. I am happy and privileged to be able to write this foreword to an important report. I believe, with the children who spoke at the United Nations Special Session on Children in May 2002:

We are children whose voices are not being heard: it is time we were taken into account.

We want a world fit for children, because a world fit for children is a world fit for every one.

Introduction

Children and youth who live in the care of government institutions are granted special rights under the law. The reasons for this special protection are many. Young people who live in the care of institutions are under the care and day-to-day control of the government, its agents and employees. They are subject to numerous and often intrusive decisions made by persons who do not share a family bond and do not love them. Moreover, these substitute caregivers will not necessarily have the best interest of a child at heart. In some cases, they do not know the child at all. In the vast majority of cases young people do not enter the care of government institutions by choice, they are placed in care under the force of agencies mandated by law. Even in the few cases of young people who enter government care by choice (for example, an older child who enters the care of a Children's Aid Society voluntarily, or who self-admits him or herself to a mental health facility), young people must relinquish much of their power to make decisions in their own best interests in return for services. Although agencies and helping professionals are supposed to consider the "best interests of the child" in all decisions that will affect a young person, it is clear that this is not always the case in practice.

Many of the institutions that provide substitute care for children and youth routinely take actions that would be considered extraordinary, excessively forceful, or even abusive in the family setting. In some foster homes children are locked out of the house when the foster parents are not home, leaving some children effectively homeless for hours at a time. In group homes, children's mental health centres and young

offender facilities young people are subject to *physical restraints*, a technique used by staff to control children who are deemed to be *out of control*. While sometimes conducted with professionalism, restraints often involve arbitrary and violent use of force for punitive purposes. Children and youth have described being grabbed by their hair, thrown to the floor, shoved into walls, being pinned on the floor for ten, twenty, thirty minutes or more. In children's mental health centres young people may be subject to *chemical restraint*, where staff forcibly inject tranquilizers into a young person. In most institutional forms of care (young offender custody, children's mental health centres) and even in some group homes young people are frequently confined, either in their own bedrooms or in special isolation rooms. Depending on the type of care and the applicable laws, this confinement can last minutes, hours or days. Because law enforcement officials have consistently concluded that none of these actions are criminal, children in care are unable to rely on the police and the assault provisions of the *Criminal Code* for protection. Somehow, the residential care systems that are supposed to provide protection and responsible care for young people adhere to a standard of care that allows from professionals what might be considered abuse from parents. This double standard makes children and youth in care very vulnerable indeed.

Young people's set of special legal rights is one of the few safeguards that protects them from unfair treatment and abuses of power. For example, young people in care have the right to be provided with the necessities of life, to make complaints through a legally mandated complaints procedure, to have their placements

reviewed by an external body, and to participate in decisions that are made about their care. In many cases, however, these rights are not accessible to young people because they are not provided with meaningful information about their rights, or are discouraged from relying upon them. This presents a troubling situation for young people in the care of the state: they are quite vulnerable under normal circumstances, and even more so when basic safeguards such as rights are not accessible to them.

Children's Advocate offices are one of the measures that have emerged to ensure that young people's rights are respected, and that their voices are heard. While the specific duties and functions of Children's Advocates vary across Canada, the impact that Advocates can have in the lives of young people in care is consistent. Whether acting as listeners and support people, investigators, mediators, monitors, or trouble-shooters, Advocates emphasize and strengthen the voice of young people. As protectors of children's voices and rights, Advocates are, in a sense, the safeguard of safeguards. Advocates play a critical role in ensuring that young people in care have meaningful access to their rights.

"Children and youth cannot vote and have limited means of exercising their democratic rights to influence political, social or economic change. It is therefore up to parents, guardians, teachers, caregivers, community leaders, bureaucratic officials and politicians to ensure that the interests of children and youth are represented effectively in political, civic, social and economic forums. We all need to be outspoken champions of children's issues."

***Voices From Within: Youth Speak Out.* Office of Child and Family Service Advocacy, 1998, p. 3.**

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1.0 | Background

This examination of children's access to advocacy services in Ontario stems from evidence presented in the coroner's inquest into the death of Stephanie Jobin, a 13-year-old crown ward who was suffocated by staff in an Ontario group home. This inquest was held in Brampton, Ontario between November 18 and December 8, 2002.

Testimony from Judy Finlay, Ontario's Chief Advocate, raised questions about young people's access to the Office of Child and Family Service Advocacy (Advocacy Office). Under cross-examination Ms. Finlay testified that an "administrative glitch" within the Ontario government has prevented the Advocacy Office from printing and distributing promotional posters, brochures, and other materials for over two years. These materials are normally distributed to residential care facilities to provide residents with information about their rights, and to promote the Advocacy Office as a means of addressing rights abuses in care.

This is not the first time access to the Advocacy Office has emerged as an issue in a coroner's inquest. The inquest into the death of James Lonnee (held in Hamilton, 1998-1999) heard that young people in custody have been denied their right to telephone the Advocacy Office if they were deemed by facility staff to be "out of control". The inquest into the death of William Edgar (held in Peterborough, 2001) heard evidence to suggest that a child welfare group home did not display the Advocacy Office's promotional poster as required by group home licensing rules—except during visits from licensing inspectors.

Beyond coroner's inquests, the Advocacy

Office's own research points to numerous barriers that compromise young people's access to advocacy services. The Advocacy Office's 1998 report, *Voices From Within: Youth Speak Out*, identified fear of reprisals as a major barrier to accessing advocacy services and other assistance when young people's rights are violated. The presence of caregivers who intimidate, threaten and otherwise deter young people from calling the Advocacy Office was identified as a problem in every service system: foster care, group homes, young offender facilities, and other residential care settings.¹ The report also found that young people in care are not always provided with information about their rights and about the Advocacy Office.

Most of these concerns addressed barriers that, while possibly system-wide in reach, reflect *localized* problems: problems in facility policy, institution culture, and staff conduct. What has been lacking to date is a comprehensive examination of the barriers to advocacy services that reside within the Advocacy Office itself: problems in the office's mandate, functions, powers, etc. These structural issues have a strong influence on the services that the Advocacy Office is able to provide, and thus influence the experiences that young people will have when seeking advocacy services. This report makes a first attempt to identify structural problem in the Advocacy Office, and to identify practices that will improve children's access to rights and advocacy services in Ontario.

1.1 Sources of Information

Our study of advocacy services for children and youth in care in Ontario draws upon dozens of

monographs, articles, reports and other publications. Within this literature, a small number of documents have been particularly helpful and influential. These documents are the products of comprehensive studies of such issues as the perspectives of youth in care, advocacy services for children and youth, and safeguards in residential care settings. They include the following:

- *Pain...Lots of Pain, Family Violence in the Lives of Youth In Care*. National Youth In Care Network, 1993.
- *Beyond the Walls – Improving Conditions of Confinement for Youth in Custody*. American Bar Association, 1998.
- *Voices From Within: Youth Speak Out*. Office of Child and Family Service Advocacy, 1998.
- *A Review of the Office of The Children's Advocate*. Chan Durrant Ltd., 2000.
- *Restoring Dignity – Responding to Child Abuse in Canadian Institutions*. Law Commission of Canada, 2000.
- *Verdicts of the juries in the coroner's inquests into the deaths of James Lonnee (1999), William Edgar (2001), Joshua Durnford (2001), Paola Rosales (2002) and Stephanie Jobin (2002)*. Office of the Chief Coroner.

For a complete list of sources see the *Bibliography* (page 39).

1.2 Nature and Limitations of the Report

This study is intended to examine systemic-level barriers that prevent children in care from accessing advocacy services, and to provide a framework within which to pursue a renewed mandate, structure and role for the Advocacy Office in light of those barriers. It relies on existing literature and reported expertise on the provision of advocacy services for children and youth in Canada, and on the state of policy and practice in Ontario's child and youth care systems.

This study reviewed existing models of Advocacy Offices and similar agencies. The scope of this review

was restricted to offices within Canada and, to a limited extent, the United States. While an exhaustive review of advocacy service models around the world would doubtless have revealed a greater number of examples, we felt that limiting the review to North America was more than adequate for two reasons. First, because the children's services delivered in other countries are in many cases very different from those in Ontario; advocacy models in jurisdictions whose laws and services most closely resemble those of Ontario are most instructive for the purposes of this report, and most amenable to adoption and/or adaptation within Ontario. Second, even when limiting a review to North America there is no shortage of examples and models to learn from. The wealth of advocacy service models includes 8 within Canada and 20 in the United States.

While this report does explore the current state of advocacy services for children and youth in care in Ontario, it is limited to the examination of the available evidence of *functions*—that is, evidence that describe the roles, functions and methods of the Advocacy Office. It is beyond the scope of this report to make a meaningful examination of *outcome* indicators—that is, empirical evidence that describes the effectiveness of the Advocacy Office, such as client satisfaction or results of services. Thus, this report is not capable of assessing the effectiveness of the Advocacy Office.

Finally, while this report recommends a number of measures to remedy the current shortfalls of advocacy services in Ontario, it should be recognized that this research cannot take the place of meaningful consultation with stakeholders. In particular, given the guarantees of the right to participate in decisions that are held in the *Child and Family Services Act* and in the UN Convention on the Rights of the Child, any strategy for the renewal of advocacy services in Ontario must engage the meaningful participation of young people in care across the province at every stage of decision-making.

2.0 | Children and Youth In Care

2.1 Child Protection

Children and youth in child protection care live in substitute homes to be protected from abuse, neglect, and other forms of maltreatment. Under the *Child and Family Services Act*, 55 Children's Aid Societies (CAS's) across Ontario are mandated to investigate allegations of child maltreatment, provide support to families and, when necessary, remove children who are in danger and place them in substitute homes. Children may be placed in care through voluntary agreements between parents and the CAS, or through court orders that makes children temporary or permanent wards of the society². The types of substitute homes used by CAS's include foster homes, group homes, and, when children have mental health difficulties, children's mental health centres. The rights of young people in care are contained in Part V (Rights of Children) of the *Child and Family Services Act*. There are approximately 17,000 children and youth in child protection care in Ontario.³

2.2 Residential Children's Mental Health

Children in mental health care live in residential children's mental health centres. There are numerous children's mental health centres across Ontario, some of which operate residential programs. These programs vary considerably: some are located within larger facilities or institutions, others are located in small, neighbourhood-based group homes. These programs have their own admissions criteria. A parent or child can usually approach a residential program directly to learn about the admission criteria and process. A child cannot be held in a residential mental health program

against his or her will, unless he or she has been admitted to a secure treatment program (see below). The Ministry of Community, Family and Children's Services licenses and/or funds residential programs of children's mental health centres.

Under the *Child and Family Services Act*, the Ministry of Community, Family and Children's Services also funds and regulates the operation of secure treatment centres, "for the treatment of children with mental disorders, in which continuous restrictions are imposed on the liberty of the children".⁴ These facilities have locked doors and young people cannot leave without permission. A young person can be committed to a secure treatment facility under a court order for a period of 180 days. This term can be renewed by further orders of the court. When someone is applying to the court to place a child in secure treatment, the child has the right to participate in the hearing and to be provided with legal counsel. Also, in an emergency, the administrator of the secure treatment centre can admit a child to secure treatment for a maximum of 30 days. The administrator is required to notify the Office of the Children's Lawyer and the Advocacy Office of all emergency admissions within 24 hours. The Children's Lawyer is required to ensure that the child has a lawyer within five days. The Advocacy Office is required to ensure that a person other than a staff member of the secure treatment centre provides the child with accurate and age-appropriate information about his or her rights.

Secure treatment facilities may use the police to apprehend a child who is being admitted or who has run away. They may also use secure isolation rooms

and psychotropic drugs to control the behaviour of children under certain circumstances.

2.3 Young Offender Custody and Detention

Young people in custody and detention are being held under the federal *Young Offenders Act* and *Youth Criminal Justice Act*. A young person in detention has been accused of a crime and is being held before and during trial, or after trial while waiting to be sentenced. A young person in *custody* has been found guilty of an offence and sentenced by the court to serve a period in custody. For both detention and custody there are two levels of security: open and closed. Closed (secure) facilities have locked doors and other strict security measures (e.g., a security fence, locked cells or bedrooms, limited freedom to move around within the facility). Open facilities do not have locked doors and generally have fewer security measures, but young people are closely supervised by staff and are not permitted to leave. A young person in open or closed custody can apply to the government for a temporary pass to leave the facility for family visits, to attend school or work, or for other purposes that will assist in his or her reintegration into the community after release.

Unlike other provinces, Ontario operates two different systems of young offender services: phase one and phase two. A young person in the phase one system has committed an offence, or is accused of committing an offence that occurred when he or she was 12 to 15 years old. The phase one system operates under the *Child and Family Services Act*, and is managed

by the Ministry of Community, Family and Children's Services. A young person in the phase two system has committed an offence, or is accused of committing an offence that occurred when he or she was 16 or 17 years old. The phase two system operates under the *Ministry of Correctional Services Act*, and is managed by the Ministry of Public Safety and Security. Each law provides a set of rights for young people in custody and detention. Generally, the rights are the same in both laws. The rights and protections contained in the *Youth Criminal Justice Act* apply in both systems.

On an average day there are over 1,800 young offenders in detention and custody in Ontario.⁵

2.4 Provincial Schools

Young people who are deaf or blind, have serious hearing or vision impairments, or serious learning disabilities attend special provincially operated schools. Because of the specialized nature of these schools there are only nine of them, requiring many young people to board at the schools during the school year. The provincial schools are operated by the Ministry of Education. There are nine schools in Ontario, distributed among five locations. Schools for the deaf and demonstration schools for the learning-disabled share campuses in London, Milton, Belleville and Ottawa. A school for the blind is located in Brantford.

Young people living in provincial schools will normally board at the school during the week only, and return home on weekends, holidays, and during the summer. Young people who travel from remote communities by plane usually go home every second

"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 have proved neglectful or inadequate, because it means that their children will usually lack effective natural advocates outside the institution."

Restoring Dignity: Responding to Child Abuse in Canadian Institutions. Law Commission of Canada, 2000, p. 6.

or third weekend during the school year. Because young people living in provincial schools remain under the care and guardianship of their parents, they do not have the same special legal rights that other young people in care have. They are, however, subject to the same rights and responsibilities as any other student in the education system.

2.5 Other Government Services

Young people with special needs, including those who have a developmental disability, receive a variety of services through agencies and programs funded by the Ministry of Community, Family and Children's Services. These services include out-of-home residential care. Children and youth with multiple special needs (i.e. a combination of developmental and psychiatric disorders) often require a whole spectrum of services that can include in-home support, specialized day treatment, and occasional or long-term care in out-of-home residential facilities.

While many of these young people remain under the care and guardianship of their parents, rather than the government, the complexity of their needs and the difficulty in finding resources to support themselves and their families makes this a very vulnerable group that frequently requires formal advocacy services.

2.6 Rights

Children and youth in child protection, young offender and mental health care in Ontario share the following legal rights:

- Right to be heard and express opinions
- Right to participate in their plan of care decisions
- Right to freedom from corporal punishment
- Right to appropriate health care
- Right to education and religion
- Right to be informed of their rights under the Child and Family Services Act
- Right to understand the rules, disciplinary practices and responsibilities at a placement
- Right to reasonable privacy
- Right to know how to make a complaint and to know about the Advocacy Office
- Right to appropriate clothing
- Right to recreation⁶

"When you are young, there are few things that can cripple the feeling of self-reliance and personal strength faster than being treated as someone who is not worthy of respect. When someone who is vital to your happiness will not take the time to listen to you, and does not consider your rights and your point of view, it sends a clear and debilitating message that you are a second-rate human being. This is especially harmful if your young life has already been subject to abuse or neglect or racism, or if encouraging adults have been few and far between."

A Review of the Office of the Children's Advocate. Chan Durrant Ltd., 2000, p. 1.

3.0 | The Need for Access to Rights and Advocacy

Numerous studies and reports have drawn attention to young people's need for access to rights and advocacy services over the past 10 years. This section reviews a selection of works that have particular value in the exploration of the perspectives of young people in care, the risks faced by young people in care, and the possible roles that Advocates can play in addressing individual and system-wide problems in Ontario's child and youth care systems.

3.1 Pain...Lots of Pain (National Youth In Care Network)

In 1993, National Youth In Care Network published *Pain...Lots of Pain, Family Violence and Abuse in the Lives of Young People In Care*. This book reported the results of a two-year study of youth in care and their experiences with violence in the family and in out-of-home placements. The study sought the perspective of young people in care through in-depth interviews and analyzed the feedback within the framework of an extensive literature review.

In a chapter dedicated to violence within the child welfare system, the author enumerated the factors that contribute to abuse and maltreatment in out-of-home placements. The author identified contributing factors in three general areas: the young person; the caregivers; and the policies of the institution. The contributing factors associated with the young person include: a poor standard of parenting combined with a lack of knowledge about his or her rights; living in a closed, institutional setting such as young offender custody or mental health facility; being a permanent ward of the government and having little

contact with biological family; and being disabled or having complex special needs.⁷ The contributing factors associated with caregivers who are foster parents include: a lack of commitment to fostering; expectations that a child will integrate into the family and return affection immediately; the use of corporal punishment on their biological children and the belief that it is an appropriate discipline technique; marital difficulties within the foster home; and, isolation within the community and a lack of regular contact from the supervising social worker.⁸ Contributing factors associated with residential facility staff include: a lack of comprehensive training, particularly in the area of behaviour management; an authoritarian, non-therapeutic approach to young people that attempts to maintain control exclusively through punitive consequences; and poor or stressful working conditions.⁹

Finally, the contributing factors associated with the policies of an institution include: lack of a clear policy for the identification, investigation and intervention of abuse within the facility; lack of a clear policy prohibiting the use of corporal punishment against residents by staff; lack of systematic evaluations of the facility and its programs, both internal and external; vague policies and expectations for the conduct of front-line staff; and "inadequate or inaccessible complaint or advocacy mechanisms for children and youth in care, especially for those residing in 'closed' settings such as psychiatric or young offender facilities".¹⁰

The book also emphasizes the importance of listening to young people in care, engaging them in decision-making, and giving meaningful weight to

their views regarding their own best interests. This is identified as being important for the prevention of abuse within residential care settings, and also for progress toward child and youth care systems that nurture young people's development and healing from past trauma.

3.2 Voices from Within (Advocacy Office)

In 1998, the Advocacy Office released *Voices From Within: Youth Speak Out*. This report presented the results of a series of focus groups and interviews conducted with 315 young people in care across Ontario. The report made findings regarding the quality of care experienced by youth in care, the respect for youth's rights in out-of-home placements, the use of intrusive measures (i.e. physical restraint, seclusion, searches, etc.) and on the culture experienced by young people in residential placements. The authors made 22 recommendations to improve the level of safety and respect of residential care in Ontario.

The report made findings regarding young people's access to rights information:

Observing the rights of children/youth in care is a significant safeguard for their protection. The youth interviewed for this project often had limited knowledge of their rights. Children in foster care were particularly unfamiliar with their rights.

How rights were explained to residents varied considerably across the care system in Ontario. Youth often reflected consistently on the devaluation and disrespect of children's

rights. Many youth felt that the fulfillment of their rights was conditional on their behaviour.¹¹

Another consistent finding was that youth who do know about their rights are often hesitant to assert them because of the possibility of reprisals from staff:

Youth questioned the effectiveness of the response they would receive if they asked someone for help. They frequently discussed fear of reprisals.¹²

Perhaps the most troubling aspect of the report was the number of young people who apparently had few opportunities to express their concerns and feelings about being in care in a meaningful way. The multitude of concerns expressed by research participants, and the apparent dearth of previous opportunities to voice those concerns, suggests a strong need for formal advocacy services that can help to strengthen the voice of young people. The authors note, "[t]he frank and disturbing revelations of youth who participated in this study reinforce the need for Advocates to speak out on their behalf".¹³

3.3 Restoring Dignity (Law Commission of Canada)

In November 1997 the Minister of Justice asked the Law Commission of Canada to study the issue of institutional child abuse in Canada. The objective of this study was to identify "what types of processes would best address wrongdoing, while affording appropriate remedies, and promoting reconciliation,

"It was clear that some workers and organizations make sure that their clients know about the Children's Advocate and others do not. A significant number of the youth had never heard of the Advocate, and a number of those who had, did not have a good understanding of the service."

A Review of the Office of the Children's Advocate. Chan Durrant Ltd., 2000, p. 15.

fairness and healing.”¹⁴ While the main purpose of this study was to explore the needs of adult survivors of past institutional abuse, the authors also emphasized the importance of institutional abuse prevention in the present day, urging readers “not to view this issue as a problem of the past, and support efforts to have their governments commit themselves to effective strategies to prevent child abuse in various situations of out-of-home care.”¹⁵

The final report, released in 2000, made 52 recommendations related to redress programs for survivors of institutional abuse, and the prevention of future abuse. These included the following recommendations regarding the establishment of Advocacy Offices:

JURISDICTIONS THAT DO NOT have independent bodies to act as children’s advocates should consider enacting legislation to establish them.

THE MANDATES of children’s advocates and commissioners should be broad enough to assist children and youth living in residential institutions and other types of out-of-home settings, as well as those living at home.

CHILDREN’S ADVOCATES AND COMMISSIONS should establish and consult regularly with advisory committees made up of people who are or have been in care, including adult survivors of institutional abuse.¹⁶

3.4 Coroner’s Inquests

A series of child and youth deaths in Ontario institutions in recent years has resulted in five coroner’s inquests examining deaths in child welfare group homes and correctional facilities. Because of the coroner’s inquest’s function of preventing similar deaths in the future, these inquests have examined not only the immediate circumstances surrounding the deaths of these young people, but also the service

systems and residential care facilities in which they children lived and died. The five inquests made a total of 286 recommendations. While the majority of these recommendations implicate the rights of young people in some way, the following summaries are limited to recommendations that directly address the Advocacy Office or the rights of young people in care.

i) James Lonnee

James Lonnee died on September 7, 1996 at the age of 16. He was beaten to death by another youth inmate while confined in a segregation cell at a detention centre in Guelph. The coroner’s jury made 119 recommendations to prevent a similar death in the future. These include:

1. The ... [Ministry] be responsible for ensuring that all the youth in Ontario must have the right to benefit from the fundamental human rights outlined in:

- a) the United Nations Convention on the Rights of the Child
- b) United Nations Standard Rules for the Administration of Juvenile Justice
- c) the United Nations rules for the Protection of Juveniles Deprived of their Liberty
- d) Standard Minimum Rules for the Treatment of Prisoners ...

5. Youth must be advised of their right to contact legal counsel, the advocate, and the ombudsman on admission, and on a regular on going basis and be provided with access to telephones in all areas of the facility, including secure isolation. Youth must be advised of the range of interventions available, including internal and external complaint mechanisms. ...

6. In the event of a crisis, when a youth is in an agitated state and is requesting an Advocate,

the Youth Officer must be responsible and accountable for contacting the Advocacy Office on behalf of the youth. ...

15. The onus must be on a Children's Aid Society who is "terminating" an agreement or otherwise discharging a youth to demonstrate that the day to day safety and security needs, best interests, and long term needs of the youth are met. Furthermore, it should be mandatory for the CAS to advise a youth in person, three months before services are to be withdrawn, or before a three month landmark age is reached, of the Society proposal and the youth's range of options. The youth should also be referred for independent legal advice and to the Ontario Child and Family Service Advocacy (OCFSA).¹⁷

ii) William Edgar

William Edgar died on March 31, 1999, at the age of 13. He suffocated while being physically restrained by a worker in his Peterborough group home. The inquest into William's death ran from June 19 to September 6, 2001. The coroner's jury found that William's death was a homicide and made 60 recommendations to prevent similar deaths in the future. These include:

18. Ministry of Community and Social Services should ensure that residential placements for children and youth respect the right of children to participate in decisions that affect them including decisions about the programs, routines, rules and consequences within the residence to the extent that the children are capable.

19. The Ministry of Community and Social Services should adopt a province-wide policy guaranteeing access to group homes and the residents to their rights education through the Office of the Child and Family Services

Advocate.

20. Ministry of Community and Social Services should issue a province-wide policy prescribing a rights education program for group home operators which identifies all avenues of recourse that are available to a child in care if they feel mistreated, unsatisfied with their placement or caregiver, or desire clarity about their rights.

21. As recommended in *Voices From Within: Youth Speak Out*, all youth in care must have an independent voice and the opportunity for peer support across service sectors, Ministries involved in the care of children must collaborate to ensure that this voice is heard. Peer advocacy programs should be provincially funded. ...

23. Children in the care of a group home must be given accessible and effective opportunities to express any personal concerns relative to the safety of their environment and the manner in which they are treated.¹⁸

iii) Joshua Durnford

Joshua Durnford died on February 15, 2000 at the age of 18. He died from a rare side effect of prescribed neuroleptic drugs a few days after being admitted to a provincial correctional centre in Milton. Joshua was a former crown ward of the CAS. He had been living in a child welfare group home under an Extended Care and Maintenance agreement shortly before being admitted to the correctional centre where he died. The inquest into Joshua's death ran from April 23 to August 24, 2001. The coroner's jury ruled that Joshua's death was an accident and made 45 recommendations to prevent similar deaths in the future. These include:

40. It is recommended that the Child Advocate should ensure that all appropriate Ministries and child care service providers

be made aware of, and understand, not only the rights of children as outlined in the *Child and Family Services Act*, but also the special needs and rights of the mentally challenged under wardship or on Extended Care and Maintenance Agreements.¹⁹

iv) Paola Rosales

Paola Rosales died on July 2, 2001 at the age of 14. She hanged herself in an open detention centre in Milton. Paola was under the care of CAS and had been living in a foster home shortly before her death. The inquest into Paola's death ran from September 16 to November 1, 2002. The coroner's jury ruled that Paola's death was a suicide and made 32 recommendations to

prevent similar deaths in the future. These include:

22. For intake Procedures ... Youth rights must be discussed immediately (RPAC and Child advocacy).

23. Items that must be posted in the intake room include Child Advocacy Office, rights poster, suicide risk check list and institution rules.²⁰

v) Stephanie Jobin

Stephanie died on June 17, 1998 at the age of 13. She suffocated while being physically restrained by two workers in her Brampton group home. Stephanie was a crown ward under the care of CAS. She was

"It was a very short time ago in our history that residential schools were considered the right thing to do for children of First Nations. Now we understand that this was a tragic mistake, and a mistake that could have been avoided if someone had taken the time to listen to children. Today, the debates continue around policies for foster families and adoption, the best ways to deal with young offenders, and the best treatments for all kinds of behavioural and mental health problems. What we believe about many of these issues today may not be what we believe in ten years. However, what we should always believe is that it is right to listen to the children involved, and when they cannot speak for themselves, to try and do everything possible to see the situation through their eyes. This applies to decisions made about individual children, and to decisions made about the systems that serve them."

A Review of the Office of the Children's Advocate. Chan Durrant Ltd., 2000, p. 3-4.

diagnosed with autism and a pervasive development disorder. Staff in her group home resorted to physical restraints to control her behaviour on a frequent basis. The inquest into Stephanie's death ran from November 18 to December 13, 2002. The coroner's jury ruled that the means of Stephanie's death was "undetermined" and made 30 recommendations to prevent similar deaths in the future.

The jury did not make recommendations regarding the rights of young people in care. The jury did, however, make a general recommendation that previous recommendations from the William Edgar inquest, which includes a number of recommendations regarding rights, should be implemented.

In addition, the Ontario Youth Committee on Residential Care, a special committee composed of young people who are in child welfare care, participated in the inquest in partnership with Defence for Children International-Canada. The committee submitted 22 recommendations to the jury for its consideration. These included the following:

16. The *Child and Family Services Act* be amended to provide that the Office of Child and Family Service Advocacy shall be notified of the death of a child in the care of the state. A child in the care of the state means any child subject to an order under Part III of the *Child and Family Services Act* or who is living in a residential placement that is funded by the Ministry of Community, Family and Children's Services or a Children's Aid Society. ...

20. The Ministry of Community, Family and Children's Services acknowledge that few standards, policies or practices exist with respect to the investigation of maltreatment in residential care settings for children and youth and that this represents a dangerous gap in the child protection system.²¹

3.5 A Review of the Office of the Children's Advocate (Chan Durrant)

In June 2000, Chan Durrant Ltd., a Calgary-based consulting firm, released *A Review of the Office of the Children's Advocate*. Chan Durrant Ltd. was commissioned by Alberta's Minister of Children's Services to conduct an in-depth review of the mandate, functions and services of the Alberta Children's Advocate Office. The Chan Durrant review is the most extensive study of an Advocacy Office ever completed in Canada:

In total, the review team attended 105 meetings with 848 adults and youth in towns and cities across Alberta. Thirteen people were interviewed by phone including children's advocates in British Columbia, Saskatchewan, Manitoba and Ontario. Thirty-one written submissions were received by mail or through a special e-mail address established for the review.²²

i) Main themes

The report made findings and recommendations under six theme areas: the mandate for individual advocacy; quality of individual advocacy; support for individual and community action; a voice for children within organizations; awareness and access; and systemic leadership.

Mandate for individual advocacy—The report recommended that the Advocate's mandate be expanded beyond child welfare to include "children being considered for entry into child welfare, children in child welfare, high needs homeless and street youth, young people apprehended under child prostitution legislation and young offenders."²³

Quality of individual advocacy—The report concluded that, although a limited number of consultation participant suggested that some groups or agencies (certain institutions, First Nations child welfare

agencies, and child protection authorities) be allowed to create their own internal advocacy programs, effectively *opting out* of the provincial Advocate, “[s]uch a situation would leave children vulnerable to internal abuses with no recourse.”²⁴ The report recommended that no agency or service covered by the Advocate’s mandate be exempt from its services.

Support for individual and community action—Consultation participants discussed the importance of *natural advocates*, which includes “parents, teachers, workers and relatives who naturally surround the young people as they go through life”,²⁵ and could also include groups and agencies in the young person’s local community that fulfill an advocacy function. The report recommends that natural advocates be supported through the provision of a telephone- and internet-based information system that provides useful information about how to access services and navigate the service systems. It also recommends that a small amount of funding be allocated to fund pilot projects to develop innovative methods of natural advocacy at the community level.

A voice for children within organizations—The review found that a large number of young people living in facilities felt isolated and helpless when they had concerns or complaints about their treatment. At the time of the review, the Advocacy Office did not have a strong, consistent presence in many of these facilities, and would usually only engage with a facility within the context of an individual complaint. The report recommends that the Advocacy Office proactively review facilities that fall within its mandate. These reviews were believed to be capable of fostering a more cooperative relationship with facility staff than is often possible in cases of individual complaints. Reviews would focus on gathering the perspectives of young people in facilities, and then using client feedback to work with staff “to resolve identified problems, provide training, and introduce procedures that have been successful in other facilities and services.”²⁶

Awareness and access—Consultation participants identified concerns about the accessibility of the Advocacy Office to young people in remote and northern communities, and particularly to aboriginal youth. At the time of the review, young people could access the Advocate through two offices: one in Calgary, one in Edmonton. The report recommends that the Advocate work to become more accessible and relevant to youth from northern and aboriginal communities by establishing offices in the north, and by hiring more aboriginal staff.

The consultation also identified numerous concerns about a lack of information about the Advocate, and a lack of communication flowing from the Advocate to organizations and agencies covered by its mandate. The report recommends that the Advocate create a communications staff position and have a budget to support public awareness activities.

Systemic leadership—The review found that young people involved in government care are often involved in multiple services and ministries, and therefore require an Advocate who is mandated to examine the whole system of government services for children and youth, and to act on a systemic level. The report noted that this ability requires a broader service mandate, greater independence from any single ministry, and enhanced powers:

The Children’s Advocate should be established as a more visible and more credible voice for children, and have a broader role in contributing to improvements in all systems that affect their wellbeing. This should be accomplished by:

- d) Extending the Children’s Advocate mandate for systemic change to include the full network of systems that affect children and youth;
- e) Providing the ability to investigate, report on, and make recommendations on all provincial government systems and all important issues

that impact the wellbeing of Alberta's children, and to require organizations to provide information on how they are responding to the Advocate's recommendations; and

f) Having the Children's Advocate report to the Legislature in a manner similar to the Ombudsman and Auditor General.²⁷

ii) Other findings and recommendations

Child death review function—The review identified a need for a new, independent and more holistic process for death reviews in the province, especially in cases where the child was or had recently been in government care. The review found that the current, internal review process used within the ministry was not independent or credible. It also found that child deaths require a more holistic examination than the medical examiner normally employs, exploring "the full circumstances of the child's life and death".²⁸ The authors call for "a mechanism to follow up on recommendations resulting from such reviews",²⁹ i.e. a time-bound requirement for agencies to report progress on the implementation of recommendations. The report recommended that the new child death review process should become the responsibility of the Advocate, or the Medical Examiner with the mandatory participation of the Advocate.

Advocacy in the education system—Noting that "[s]chools are seen as making critical decisions about the futures of young people with disabilities and behaviour problems",³⁰ the authors found that many consultation participants identified a need for advocacy on behalf of children and youth who are involved in government services and whose needs are not being met by the education system, or who are being excluded altogether from the education system. The report did not recommend that the Advocate's mandate be expanded to include all children and youth in the public education system, but instead suggested that the Advocate should be empowered to intervene in the education system on behalf of young people who

were otherwise within the Advocate's mandate.

3.6 Beyond the Walls (American Bar Association)

Beyond the Walls, Improving conditions of Confinement for Youth in Custody was released by the Juvenile Justice Center of the American Bar Association in 1998. The report was created to provide lawyers and other professional helpers with tools to advocate for young people in custody and other state care situations.

The report dedicates a chapter to the development and use of ombudsman programs for children and youth. While the report focuses primarily on advocacy for young people who are incarcerated, many of the ombudsman programs that it surveys include child protection services within their mandates, and in some cases focus exclusively on child protection.

The authors of this report chose to use the term *ombudsman* to describe the advocacy agencies they surveyed. It is important to note that this term tends to have a specific meaning in Canada, and in particular is associated with government agencies that focus primarily on *administrative fairness* in service delivery and complaint resolution. This is not the meaning held by the authors of *Beyond the Walls*. The programs surveyed in *Beyond the Walls* include a broad range of agencies and organizations. These include ombudsman offices as they are understood within the Canadian context, but also include legal assistance agencies, non-profit institutes, death investigation and death review agencies, and Advocacy Offices that resemble those within Canada.

The report identifies a number of important roles for ombudsman programs, including, "to protect the legal rights of children in State care as well as to monitor programs, placements, and departments responsible for providing children's services."³¹

In an overview of the Rhode Island Child Advocate Office, described as a model ombudsman program in the report, the authors identified a number of specific functions that are desirable. These include

the investigation of child fatalities in which the victim had a connection to state care services; periodic review of residential facilities; investigations of institutional abuse; the provision of advice and expertise to the Legislature; the production of an annual report; and public education through presentations at conferences and community meetings; research; and participation in community groups, committees, etc. that promote the interests of children.

Curiously, the Rhode Island Child Advocate Office is also authorized to initiate civil actions against the state on behalf of young people to seek remedies for rights abuses. The report states the litigation function “most often serves to promote meaningful negotiations of grievances that leads to timely procedural and substantive reforms.”³²

Checklist for Creating an Ombudsman Program

- ✓ **Examine the different models of ombudsman programs to determine which might work best in your community.**
- ✓ **Locate supportive community agencies and groups.**
- ✓ **Influence the political bodies necessary to establish the program.**
- ✓ **Stay apprised of the authority and functions given to the program and lobby for all the authority necessary to adequately monitor the juvenile justice system:**
 - ✓ **Access to juveniles.**
 - ✓ **Access to records.**
 - ✓ **Access to facilities.**
 - ✓ **Supoena power.**
 - ✓ **Litigation authority.**
- ✓ **Emphasize the need for appropriately qualified staff and adequate funds.**
- ✓ **Develop relationships with law schools and universities.**
- ✓ **Work to establish cooperative relationships between the facilities and the ombudsman program.**
- ✓ **Participate in community outreach activities.**
- ✓ **Look for long-term funding options.**

Beyond the Walls, Improving Conditions of Confinement for Youth in Custody.
American Bar Association, 1998, p. 14.

4.0 | The Advocacy Office

Ontario's Advocacy Office is the oldest agency of its kind in Canada. It was first established in 1978. In 1984, the Advocacy Office received a legislated mandate through provisions in the *Child and Family Services Act*. The Advocacy Office is an agency of the Program Management Division within the Ministry of Community, Family and Children's Services. It is managed by the Chief Advocate/Manager who an employee of the ministry. The Advocacy Office is administratively accountable to an assistant deputy minister. Historically, the Advocacy Office has operated at an "arms-length" from the government.

4.1 Legislated Mandate

The Advocacy Office is mandated under section 102 of the *Child and Family Services Act*. Section 102 states:

102. The Office of Child and Family Service Advocacy is continued under the name Office of Child and Family Service Advocacy in English and Bureau d'assistance à l'enfance et à la famille in French, to,

(a) co-ordinate and administer a system of advocacy, except for advocacy before a court, on behalf of children and families who receive or seek approved services or services purchased by approved agencies;

(b) advise the Minister on matters and issues concerning the interests of those children and families; and

(c) perform any similar functions given to it by this Act or the regulations or another Act or the regulations made under another Act.³³

The scope of the Advocacy Office's legislated service mandate is established by the terms "approved services or services purchased by approved agencies" in paragraph 102(a). These terms are defined in subsection 3(1) of the Act, and their definitions are subject to further definitions elsewhere in the Act. The effect of these definitions is that the Advocacy Office's legislated service mandate includes persons seeking or receiving: services provided by a Children's Aid Society, including persons who are not living in out-of-home placements; residential services that are either directly provided or purchased by Children's Aid Societies (i.e. foster homes and group homes); services provided by licensed residential children's mental health centers; young offender services within the phase one system (open and closed young offender facilities, and community services); and, community or residential services to support families with special needs children.

The Advocacy Office also has a special duty to act as the guarantor of rights for children admitted to secure treatment facilities under the emergency admission provisions in section 124 of the Act. Subsection 124(6) requires that the administrator of a children's mental health facility notify the Advocacy Office of all secure admissions within 24 hours. Subsection 124(7) requires the Advocacy Office to ensure that a child subject to an emergency admission be advised of his or her rights by a person other than a staff member of the children's

mental health facility, without delay. The child must be advised of his or her rights “in language suitable for the child’s level of understanding”.³⁴

Children and youth who fall within the service mandate have the right to speak in private with and receive visits from an Advocate appointed by the Advocacy Office under subparagraph 103(1)(b)(ii) of the Act. This provision has the *effect* of giving the Advocacy Office a right of entry into facilities and a right of access to young people in care, although it is not clear from the legislation that the Advocacy Office has the right to enter a facility on its own initiative.

Children and youth who fall within the service mandate also have the right to be informed of the existence of the Advocacy Office under paragraph 108(c) of the Act.

4.2 Negotiated Functions

In addition to the mandated functions described above, the Advocacy Office has developed other functions through agreements with different ministries of the government.

Phase two young offender custody—In 1992 the Advocacy Office negotiated an agreement with the former Ministry of Correctional Services and Solicitor General (now the Ministry of Public Safety and Security) to provide advocacy services to young people in young offender custody, detention, and community services in the phase two system. This agreement has the effect of extending the rights regarding to the Advocacy Office that apply to phase one young offenders (right to be informed about the Advocacy Office, right to communicate with the Advocacy Office) equally to phase two young offenders.

Schools for the deaf and blind, and demonstration schools—In 1992 the Advocacy Office negotiated an agreement with the Ministry of Education to provide advocacy services to children and youth living in the province’s residential schools for the deaf, blind and learning disabled. The Advocacy Office is accessible

by TTY device, employs a full-time Advocate who is deaf, and some other Advocates are trained in sign language.

Pre-court detention—In 1998 the Advocacy Office negotiated an interministerial agreement to provide advocacy services to young people in pre-court custody (police holding cells, transport vehicles, and court holding cells). Under this agreement Advocacy Office posters have been placed in police and court holding facilities, and young people are now advised of their right to contact the Advocacy Office if they have concerns about their treatment while in pre-court custody.

4.3 Special Programs and Expertise

Twenty-five years of experience has allowed the Advocacy Office to develop special programs, techniques and expertise in response to challenges in the service systems. The following examples represent a small number of the innovative programs that the Advocacy Office has developed and refined over the years.

Rightway—As a follow-up to the *Voices From Within* report, the Advocacy Office initiated Rightway, a peer-to-peer rights education program for young people in care. In this program, trained youth facilitators conduct age-appropriate, interactive workshops that explore the rights of youth in care, and teach responsible, effective strategies for resolving complaints. At an early stage in the project the Advocacy Office partnered with Save the Children Canada, a national charitable organization that focuses on the rights of children within Canada and around the world. Save the Children Canada is now the primary sponsor of the project, and has implemented Rightway in six cities across Canada, often in partnership with provincial Advocacy Offices. The Advocacy Office remains a partner in the project and provides guidance and support for youth facilitators working within Ontario.

Facility Reviews—In 1992 the Advocacy Office

conducted its first comprehensive facility review. Responding to an anonymous tip from a helping professional, the Advocacy Office investigated the treatment of young people at the Thistletown Regional Centre, Syl Apps Campus (Syl Apps), a phase one closed custody young offender facility in Oakville. The review produced the report, *Care of Youth at Thistletown Regional Centre, Syl Apps Campus*, which made numerous findings of rights abuses and disrespectful treatment, and also made 57 recommendations for service improvement. Since this review the Advocacy Office has reported many improvements in the facility, noting that a “broad range of responses appear to have been incorporated into a ‘strategic plan’ to address comprehensively these fundamental issues.”³⁵

The review procedures created to investigate the concerns about care of young people at Syl Apps became the first version of a general facility review protocol that has evolved over the past 10 years. Since 1992 the Advocacy Office has conducted dozens of facility reviews in young offender, child protection and mental health facilities across the province.

Facility reviews are often conducted in response to serious complaints or a pattern of complaints from staff, Children’s Aid Society workers and other professionals, or young people. The Advocacy Office sends a team of Advocates into the facility to assess such issues as basic treatment (quality of accommodation, food, etc.), staff-resident interactions; the use of intrusive behaviour controls (i.e. physical restraints); respect for legislated rights; quality of and adherence to facility policies and procedures; and over-all facility culture. These reviews solicit the views of both residents and staff. The Advocacy Office has developed unique methods to prevent reprisals against residents as a result of speaking with Advocates. They spend an equal amount of time with each resident, regardless of how long a resident actually speaks about concerns, to ensure that no resident will be identified as having acted as an informant to the Advocacy Office. This

method has influenced the investigation techniques used by Advocates in other jurisdictions. The review team will develop a report to facility management and problem-solve with managers to solve high priority concerns. Quite often Advocates will make numerous follow-up visits with the facility staff and residents after the initial review.

Exit Interviews—The murder of 16-year-old James Lonnee in a Guelph detention centre prompted the Advocacy Office to develop an exit interview protocol to monitor the quality of care in young offender facilities. The Advocacy Office relies to a large extent on feedback from residents and other concerned persons to monitor the conditions of facilities. It is believed that the culture of fear and reprisals in the young offender sector, a culture in which calling the Advocacy Office can cause a young person to be labeled a “rat” by staff and residents alike, may deter some young people from speaking with the Advocate.

The Advocacy Office addressed this barrier by creating an interview guide to be employed with young people who are about to be discharged from a young offender facility. Young people feel more secure discussing their experiences in a facility shortly before release because they are not at risk of reprisals from staff or residents. Exit interviews have been employed with a standardized interview guide since 1999. Uniform data collection over a period of years has allowed the Advocacy Office to monitor facility-specific and province-wide trends over time.

Other Advocacy Offices are presently adopting the Ontario Office’s exit interview protocol for use in a national study of care provision in young offender custody facilities.

Youth's responses to the question: "What do rights, liberties and privileges mean to youth in care and do these mean something different to youth who are not in care?"

"Youth in care know very little about these things"

"It's arbitrary –these things can be revoked at any time, and are inconsistent"

"Depends on what attitudes the staff have towards these things"

"The atmosphere of the home has a lot to do with it (i.e., a home for high risk children may not experience these things to the same degree)"

"Youth don't know their rights while others don't understand them"

" 'Care' is a more bureaucratic, complicated and detailed system than 'normal' family homes. This immediately robs youth of some freedoms."

"Youth in care feel more alienated and different than youth in 'normal' home"

"Youth in care have the same basic rights as all other youth"

"There is an 'in care' culture of ignorance. For example, when youth are in care or corrections in particular, it is assumed that we aren't allowed the same rights or that we should lose them all together."

"Youth in care are isolated from their rights"

"All privileges are stripped from day one. We have to earn even the most basic privileges"

"Sometimes staff confuse rights with privileges"

"It's a game we play to feel normal in care"

"We don't have privacy. Sometimes it feels like I'm on display."

"Youth in care are given a rights booklet, but no specifics are given about consequences or punishments and when or why these will happen."

Proceedings of the Youth-only Workshop, Violence Within: National Roundtable on Abuse and Maltreatment in Canada's Residential Child and Youth Care Facilities. National Youth In Care Network, 2001.

5.0 | Findings Regarding the Advocacy Office

This section assesses the current capacity of the Advocacy Office based on a number of indicators. These include the legislated mandate, staffing level, public information and communications functions, powers, and ability to monitor child deaths, of the office. These indicators stem from the available literature regarding appropriate and helpful roles of Children's Advocates. The indicators presented are not exhaustive; there are numerous others that may have been helpful but were not addressed because of a lack of available data. And, as discussed in *Background*, this study did not gather or rely upon data regarding the outcomes of advocacy services, such as results achieved or client satisfaction. Nevertheless, the indicators presented are meaningful, speak directly to the abilities of the office, and provide at least a partial picture of the current capacities of the Advocacy Office.

5.1 Mandate

The assessment of the Advocacy Office's legislated mandate relies on the legislation governing residential care for children and youth in Ontario.

The legislated mandate of the Advocacy Office is restricted to young people who are in care under the authority of the Ministry of Community, Family and Children's Services. It excludes young offenders in the phase two system under the Ministry of Public Safety and Security; young people in pre-court custody such as police holding cells, transport vehicles, and court holding cells; young people who are residents in adolescent mental health units of hospitals operated under the Ministry of Health and Long Term Care; and, students who board at residential schools for the blind,

deaf and learning-disabled operated by the Ministry of Education.

Ministries other than Community, Family and Children's Services are under no legal obligation to cooperate with the Advocacy Office; they do so on the basis of voluntary agreements that could potentially be rescinded by their respective ministers. This patch-work of agreements unnecessarily complicates Ontario's system of child advocacy, does not afford young people the same guarantee of advocacy services as would be provided by a legislated mandate, and does not make the separation between political interests and advocacy services that is essential for Ontario's Advocacy Office to be perceived as independent and credible. For example, the current arrangement of agreements is vulnerable to the criticism that, in the event that the Advocacy Office intervened and subsequently reported publicly on serious rights abuses, a development that could cause embarrassment to a minister, the minister would be able to bar or encumber further access to young people and facilities under his or her charge. To maintain the confidence and trust of young people in care and all citizens, Ontario's child advocacy services must not be vulnerable this criticism.

Developments in the government's management of young offender services raise particularly strong concerns about advocacy for young people in that system. The Ontario government has announced its intent to transfer responsibility for all young offender services to the Ministry of Public Safety and Security, which operates phase two young offender services under the *Ministry of Correctional Services Act*. The provisions regarding care of young offenders in this Act

TABLE ONE: Children and Youth in Care per Advocate, Ranked by Province

Rank	Province	Advocates ^a	Child Welfare Population (98-99) ^b	Young Offender Population (99-00) ^c	Total Applicable Population	Children per Advocate
1	Newfoundland	3	703	103	806	269
2	Saskatchewan	10	2,710	351	3061	306
3	Alberta	16	6,629	n/a ^d	6629	414
4	British Columbia	15	9,813	329	10,142	676
5	Manitoba	5	5,358	n/a ^d	5,358	1,071
6	Ontario	11	12,490	1,830	14,320	1,302

^a Data were retrieved from Advocacy Office annual reports (most recent) and on-line government telephone directories as at May 25, 2003. "Advocates" includes the chief, manager, director or appointed Child Advocate; managers and employees directly involved in the provision of advocacy services; designated youth staff; and employees working on special projects that assist in the provision of advocacy services. It excludes administrative assistants, secretaries, receptionists, computer/network administrators, communications staff, and managers not directly involved in the provision of advocacy services (e.g. human resources, finance). Not all positions are full-time.

^b Retrieved from Secretariat to the Federal/Provincial/Territorial Working Group on Child and Family Services Information, 2001. Refers to each province's reported "children in care" population as at March 31, 1999. The definition of "children in care" varies according to provincial legislation and policies. Year 1998-1999 is the most recent year for which children in care data are available from all provinces. There has been a significant increase in the children-in-care population in most provinces since 1998-1999.

^c Retrieved from Hendrick, 2001, p. 12.

^d Children's Advocate mandate does not include young offenders.

are very similar to those in the *Child and Family Services Act*. This includes the provisions regarding the rights of young offenders. Generally, the legislated rights of young offenders are the same under body laws, and both ministries. There is one notable exception: the *Ministry of Correctional Services Act* does not give young offenders the right to communicate with the Advocacy Office. Further, although the government announced its intention to transfer responsibility of young offender services in 2001,³⁶ and although the government made a number of administrative amendments to the *Ministry of Correctional Services Act* in 2002,³⁷ the addition of the right to communicate with the Advocacy Office was not among the many amendments.

This is an unusual and troubling omission, given the government's stated intention of transferring responsibility for all young offender services to that ministry and that Act in the near future. This raises many questions about what degree of access to advocacy services future young offenders

will be able to expect in Ontario.

5.2 Staffing

The Ontario Advocacy Office is resourced with a dangerously low number of staff, given the number of young people in care and the number of children (under 18) in the general population in Ontario.

For the purpose of evaluating the Advocacy Office's staff resources, this study compared the ratios of advocacy staff to young people in care, and advocacy staff to children (under 18) in the general population in six provinces: British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, and Newfoundland and Labrador. Provinces were chosen for inclusion in the comparison on the basis of availability of data. The provinces were ranked according to the numbers of children per advocacy staff.

In both comparisons, Ontario ranks last, meaning that the province has the largest number of children

TABLE TWO: Children under 18 (general population) Per Advocate, Ranked by Province

Rank	Province	Advocates ^a	Population aged 0-17, (2002) ^b	Children per Advocate
1	Saskatchewan	10	258,340	25,834
2	Newfoundland	3	110,775	36,925
3	Alberta	16	762,914	47,682
4	Manitoba	5	285,857	57,171
5	British Columbia	15	881,101	58,740
6	Ontario	11	2,763,114	251,192

^a Data were retrieved from Advocacy Office annual reports (most recent) and on-line government telephone directories as at May 25, 2003. "Advocates" includes: the chief, manager, director or appointed Child Advocate; managers and employees directly involved in the provision of advocacy services; designated youth staff; and employees working on special projects that assist in the provision of advocacy services. It excludes administrative assistants, secretaries, receptionists, computer/network administrators, communications staff, and managers not directly involved in the provision of advocacy services (e.g. human resources, finance). Not all positions are full-time.

^b Retrieved from Statistics Canada, CANSIM II Series, Table No. 510001, "Estimates of Population, by Age Group and Sex". Presents population estimates for both sexes, 0-17 years, 2002.

per Advocate or, conversely, the smallest number of Advocates per population (see *Tables One and Two*). The difference between provinces is not trivial. In the first comparison (children in care population), Ontario has about one quarter the number of staff per population of the first and second-ranking provinces. In the second comparison (children, general population), Ontario has one quarter the number of staff per population of the next lowest ranking province, and less than one tenth the number of staff per population of the highest ranking province. This difference represents more than a minor variation in staffing levels, it represents a considerable deviation from the norm on the part of Ontario.

5.3 Outreach and Public Reporting

Ontario's Advocacy Office is not allowed the tools or powers to conduct meaningful outreach or public reporting.

For the purpose of evaluating the Advocacy Office's ability to communicate effectively with young people in care and with the public, this study compared the outreach and public reporting functions of Advocacy Offices in eight provinces: British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Quebec, Nova Scotia and Newfoundland and Labrador. No other provinces currently have Children's Advocates or equivalent offices. The provinces were ranked according to the number of outreach and public reporting functions available in their Advocacy Offices. The five functions chosen for the comparison are: a dedicated website (Dedicated website); the production and distribution of information materials that describe the Advocacy Office and the rights of children in care (Rights education/ promotional materials); the ability and/or requirement to make a public annual report (Annual report); the ability to make additional public reports on special topics (Special public reports); and one or more

TABLE THREE: Advocacy office outreach and public reporting functions, ranked by province^a

Rank	Province	Dedicated web site	Rights education / promotional materials	Annual report	Special public reports	Dedicated communications staff
1	Saskatchewan	■	■	■	■	■
1	Quebec	■	■	■	■	■
2	British Columbia		■	■	■	■
2	Newfoundland	■	■	■	■	
3	Alberta	■	■	■		
3	Manitoba	■	■	■		
4	Nova Scotia		■			
5	Ontario					

^a Data for this table were retrieved from Advocacy Office annual reports (most recent), websites and enabling legislation as at May 25, 2003.

staff members dedicated to communications activities (Dedicated communications staff). All of the selected functions are present, to some degree, in at least three offices; in some cases they are more common. They were also identified in the literature as being important to the functioning of Advocacy Offices.

Ontario ranks last in this comparison, meaning that its Advocacy Office has the fewest outreach and public reporting functions (see *Table Three*). There is a significant difference between the number of functions present in Ontario's office and most other offices. Six of the eight Advocacy Offices have a majority of these functions; Ontario has none. Ontario is the only province whose Advocacy Office has none of the selected functions.

The most troubling finding regarding these functions is that one of the selected functions, the production of information materials that describe the Advocacy Office, is required under Ontario law. Paragraph 108(c) of the *Child and Family Services Act* guarantees children in care the right to be informed of the existence of the Advocacy Office. According to the Ontario government's own information, these

materials are supposed to be available.³⁸ Ontario's Chief Advocate, however, has testified under oath that the government has stopped permitting the Advocacy Office to produce these materials. On this point the Ontario government is not only significantly out of step with the norms for the operation of Advocacy Offices within Canada, it is in contravention of its own law.

5.4 Powers

Ontario's Advocacy Office is provided with inadequate powers under the law.

For the purpose of evaluating the Advocacy Office's legislated powers, this study compared legislated powers of Advocacy Offices in eight provinces: British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Quebec, Nova Scotia and Newfoundland and Labrador. No other provinces currently have Children's Advocates or equivalent offices. The provinces were ranked according to the number of legislated powers of their Advocacy Offices. The seven powers chosen for the comparison are: right to enter residential facilities (right of entry); right to access and examine records regarding applicable services to children and

TABLE FOUR: Advocacy offices' legislated powers, ranked by province^a

Rank	Province	Right of entry	Access to records	Time limit to action on recommendations	Ability to cease or refuse to investigate ^b	Caregiver duty to forward communication	Obstructing the Advocate is an offence	Summon witnesses/examine under oath
1	Nova Scotia	■	■	■	■	□	■	■
2	Quebec	■	■	■	■	■	■	
3	Saskatchewan	■	■			■	■	■
3	Newfoundland		■	■	■	■	■	
4	Manitoba	■	■			■	■	
5	British Columbia	□	■			■		□
6	Alberta	■	■					
7	Ontario							

■ Unconditional or unlimited power, entrenched in legislation

□ Conditional or limited power, entrenched in legislation

^a Data for this table were retrieved from provincial statutes dealing with child welfare and children's advocates.

^b In some cases the power to refuse or cease to investigate is absent but may be redundant because legislation does not compel the advocate to investigate.

youth (access to records); the power to impose a deadline for recipients of recommendations to report on progress in implementation (time limit to action on recommendations); the power to refuse or cease to investigate a complaint under certain circumstances (ability to cease or refuse to investigate); a positive duty on caregivers to forward communication from a child to the Advocate without delay (caregiver duty to forward communication); the establishment of obstructing the Advocate as an offense (obstructing the Advocate is an offense); and the ability to summon witnesses and examine them under oath for the purpose of an investigation (summon witnesses/examine under oath). All of these powers are granted, to some degree, to at least three offices; in some cases they are more common. They were also identified in the literature as being important to the functioning of Advocacy Offices.

Ontario ranks last in this comparison, meaning that its Advocacy Office is granted the fewest powers under

the law (see *Table Four*). Once again, the differences in powers among the provinces are meaningful. While five of the provinces grant a majority of the powers to their Advocacy Offices, Ontario grants none. Ontario is the only province with an Advocacy Office to grant none of these powers through legislation.

5.5 Child Death Reviews

The assessment of the Advocacy Office's capacity to monitor child deaths relies on the legislation governing death reviews, inquests, etc. in Ontario, and on an analysis of the province's child death review process in the Health Canada report, *Child Death Reviews and Child Mortality Data Collection in Canada*.

Ontario's current system of monitoring and reviewing child deaths emerged out of a series of high profile child deaths in the early 1990's. In addition to the coroner's functions of investigation, informal death reviews and inquests, which are used in respect of deaths of persons of all ages, a multi-disciplinary child

death review body has been established. The Paediatric Death Review Committee was formed under the leadership of the Ontario Association of Children's Aid Societies (OACAS) and the Office of the Chief Coroner. A deputy chief coroner chairs the committee. The committee's membership includes experts in the fields of paediatric medicine, criminal law, child protection and public safety. The committee meets monthly and reviews an average of eight to ten suspicious deaths per meeting.³⁹ The committee often makes recommendations in response to death reviews, but the committee does not have the power to impose time limits on recommended actions, nor does it presently have the resources to conduct follow-up investigations to monitor implementation of recommendations.⁴⁰

At present, the Advocacy Office does not have a mandated role in child death reviews, nor is it represented on the Paediatric Death Review Committee. Also, there is no requirement that the Advocacy Office be notified of a death of a young person in care, or any young person.

While the Paediatric Death Review Committee would clearly benefit from increased resources, particularly dedicated staff, and perhaps some enhanced powers, the general form of this body appear to be suitable and effective in most cases. But this ceases to be true in cases of young people who die while under the care of government authorities. Commenting on the need for an independent review of deaths of children in care in Alberta, the Chan Durrant report noted:

Actual and perceived independence in death reviews is essential. Current processes, including Special Case Reviews within the Ministry of Children's Services, do not appear objective because the decision to review, and most of the participants in the review, are internal to the system. ... An external, objective child death review process is the only way to

secure public and professional confidence in a system designed to learn from these tragic situations and prevent similar occurrences.⁴¹

Members of Ontario's Paediatric Death Review Committee are a part of the child care/child protection establishment and/or are representatives or agents of the government. Further, the committee exists under the umbrella of a provincial ministry, Public Safety and Security, and is therefore also accountable to, and dependent on, the government as a body. While no one questions the qualifications and expertise of the committee members, nor is the committee suspected of ever compromising a review, there are nevertheless limitations to the legitimacy of a body that is largely internal. Once again, this does not bring the committee's structure into disrepute in respect of most child deaths. On the contrary, it makes perfect sense for public officials responsible for child protection and public safety to share expertise and collaborate in the review of child deaths. When dealing with deaths of young people who were under the care of the government, however, this approach is inadequate, if for no other reason than because it cannot be demonstrated to be independent from the organizations and agencies that are or may be implicated in a child-in-care's death.

While the Paediatric Death Review Committee does represent significant progress for the health and safety interests of children in general, the current model is not adequate when reviewing deaths of young people who were under the care of public institutions such as child protection, mental health, and young offender services. Also, the current model for child death reviews excludes the Advocacy Office, which, in cases of children who die while in government care, has the consequences of depriving the Paediatric Death Review Committee of valuable expertise, and depriving the Advocacy Office of information that could play a vital role in identifying concerns and shortfalls within child and youth care systems.

5.6 Summary of Findings

These findings reveal that the support, resources and powers given to the Advocacy Office by the government are grossly insufficient and far below Canadian norms for similar offices. The Advocacy Office's mandate is limited and conditional on the cooperation of the very ministries that the office is intended to monitor and hold accountable. The Advocacy Office's staffing resources are dangerously insufficient and, by a significant margin, lower per population than other offices surveyed. The Advocacy Office has not been equipped with the tools necessary to communicate and engage with young people in care or the public. It is not provided with the authority to monitor deaths of young people in care. And, it lacks many of the powers that are customarily conferred upon Advocacy Offices in support of their duties. Each of the five areas presents findings that would, in isolation, merit some attention and concern. Collected together, these findings reflect a province that lacks commitment to children's advocacy and, as a result of that lack of commitment, is deaf to the voices and concerns of vulnerable children.

It is improbable that these significant shortfalls would not impact on the Advocacy Office's ability to respond to the concerns of young people in care, to improve the conditions and respect for rights in the placements and facilities in which young people live, to address system-wide challenges in the child and youth care system, and to provide a degree of accountability within that system through communication with the public. The only government that would consider this situation to be acceptable is a government seeking to minimize, contain and silence the Advocate.

6.0 | Advocacy Office Models

6.1 British Columbia—Office for Children and Youth

The Office for Children and Youth was established in September 2002 to replace two child Advocacy Offices: the Office of the Child, Youth and Family Advocate, and the Children's Commissioner. The new office was established under the *Office for Children and Youth Act*. Under the Act, the Lieutenant Governor in council appoints a Children's Officer for a term of up to five years. The Officer is accountable to the Attorney General. The Officer must produce an annual report to the Attorney General, who must then table the report in the Legislature. The Officer may also produce special reports on systemic issues related to children and youth, and may release the report to the public 60 days after it is submitted to the Attorney General.

The Officer's service mandate encompasses child protection; early childhood development and care services; mental health services for children and youth; addiction services for children and youth; and youth justice services.

The functions of the Officer include: providing information and advice to young people and families regarding government services; promoting the establishment of advocacy services for young people and families in communities; monitoring the delivery of government services to young people and families; advising the government regarding services for young people and families; commenting publicly on issues that affect young people; and, intervening to advocate on behalf of individuals in extraordinary circumstances.

The Officer's powers include the ability to: access records and information regarding government services for young people and families; at the request

of the Attorney General, conduct an investigation; for the purpose of an investigation, to enter facilities that provide government services, and to summon witnesses and to compel witnesses to give testimony and to produce evidence; and, to make special reports about systemic issues affecting young people.

The Act places a positive duty on government service caregivers to provide young people with an opportunity to communicate with the Officer as soon as possible, if a young person so requests. Under the Act, a person who is summoned for the purpose of an investigation may be found in contempt by an order of the Supreme Court for failing to attend an examination, take an oath, answer questions, or produce records.

6.2 Alberta—Children's Advocate

Alberta's Office of the Children's Advocate was established in 1988 through an amendment to the *Child Welfare Act*. The Lieutenant Governor in council appoints the Advocate for a term not exceeding five years. The Advocate must make an annual report to the minister, who must then table it in the Legislature. The Advocate's service mandate includes children receiving services under the *Child Welfare Act* (child protection services).

The functions of the Advocate include: advising the responsible minister; investigating complaints regarding child welfare services for children; intervening to advocate on behalf of children; and representing the rights and interests of children in care.

The Advocate's powers include the ability to: communicate and visit with children in care; access records regarding children in care; make recommendations relating to child welfare services;

assist in appealing or reviewing a decision made about a child's care; and, provide assistance and advice to any court or appeal panel regarding a child in care.

6.3 Saskatchewan—Children's Advocate Office

The Children's Advocate Office was established in 1994 through a significant overhaul of the *Ombudsman Act*, renamed the *Ombudsman and Children's Advocate Act* by the amendment. The Advocate is an officer of the Legislature appointed by the Lieutenant Governor in council for a term of five years. The Advocate must submit an annual report to the Speaker of the Legislature. The Advocate's service mandate includes children and children's services in all sectors of the government.

The functions of the Advocate include: conducting public education regarding the interests and well-being of children; investigating complaints regarding government services for children; intervening to advocate on behalf of children through negotiation and mediation, or by making recommendations; conducting or commissioning research regarding the interests and well-being of children; and, advising any minister. The Advocate must investigate issues that are referred by a committee of the Legislature or the Lieutenant Governor in council. Also, the Advocate's office is the lead agency in a multi-disciplinary child death review team.

The Act gives the Advocate "the power to do all things necessary to carry out the responsibilities... pursuant to this Act."⁴² The Act places a positive duty on child welfare caregivers to forward any correspondence or request to speak with the Advocate immediately. It is an offence under the Act to obstruct the Advocate, fail to comply with a requirement of the Advocate, or make false statements to the Advocate.

6.4 Manitoba—Children's Advocate

The Children's Advocate was first established under *The Child and Family Services Act* in 1992. From

1992 to 1999 the Advocate operated as an office of the Department of Family Services and reported to the minister. The office was re-established as an independent office of the Legislature in 1999 under an amendment that adds Part I.1 (Children's Advocate) to *The Child and Family Services Act*. The Advocate's service mandate includes child who receive or may be entitled to receive services under *The Child and Family Services Act* (child protection services).

Under the Act a children's Advocate is appointed for a term of up to three years by the Lieutenant Governor in council, on the recommendation of a committee of the Legislature. The Advocate is accountable directly to the Legislature and must submit an annual report to the Speaker of the Legislature.

The functions of the Advocate include: advising the minister responsible for child and family services, investigating complaints regarding child welfare services for children; intervening to Advocate on behalf of children; and investigating issues referred to the Advocate by the minister or by a committee of the Legislature.

The Advocate's powers include the ability to: communicate with children in care; enter and inspect homes and facilities where children are placed; and to access records and require a person to produce information or records for examination. The Act places a positive duty on child welfare caregivers to forward any correspondence or request to speak with the Advocate immediately. It is an offence under the Act to obstruct the Advocate, fail to comply with a requirement of the Advocate, or make false statements to the Advocate.

6.5 Quebec—Commission des droits de la personne et des droits de la jeunesse

The Commission des droits de la jeunesse (the Commission) was originally established in 1979 under the *Youth Protection Act*. In 1995, the commission merged with the former Commission des droits de la personne

(Human Rights Commission) to establish the present Commission des droits de la personne et des droits de la jeunesse. The Commission has fifteen members who are appointed by the Legislature on the motion of the Premier. The Commission has a president and two vice-presidents. One vice-president is responsible for upholding the rights contained in the *Quebec Charter of Human Rights and Freedoms*, the other is responsible for upholding the special youth rights contained in the *Youth Protection Act*. The Commission must submit an annual report to be tabled in the Legislature.

The functions of the Commission include: promoting the rights of young people in child protection care and young offender custody; receiving and investigating complaints of rights abuses; conducting public education regarding the rights of children and youth; making recommendations to ministers responsible for child and youth services; and, conducting or commissioning research.

The powers of the Commission include the ability to: with the authorization of a justice of the peace, enter any place “in which he has reasonable cause to believe there is a child whose security or development is in danger”;⁴³ make time-limited recommendations to caregivers under the Act; if the Commission’s recommendations are not followed, refer the matter to the Court of Quebec; enter any institution under the Act to examine and copy records; and, refuse or cease to investigate under certain circumstances.

The Commission is immune from civil action arising from any report that it publishes.

6.6 Nova Scotia—Office of the Ombudsman, Children’s Section

The Children’s Section of the Nova Scotia Ombudsman was established through the Ombudsman’s power of delegation under the *Ombudsman Act* in June 1999. The Ombudsman delegated a Children’s Ombudsman and a group of field officers to staff the section. The Children’s Ombudsman’s service

mandate includes youth offenders held in custody and detention facilities, and in police custody. Although the Children’s Ombudsman’s service mandate also includes young people in child protection care and secure treatment, a multi-agency agreement to monitor and investigate services within child protection facilities has not yet been implemented.⁴⁴

The functions of the Children’s Ombudsman include: receiving and investigating complaints regarding young people in custody, detention, and police holding facilities; monitoring the conditions and care provided in custody facilities through regular visits; and making reports and recommendations to the government to address complaints and other matters.

The Children’s Ombudsman’s powers rely upon a delegation of the Ombudsman’s powers under the Act. The powers of the Ombudsman include the ability to: investigate complaints or other matters regarding government services; summon witnesses and examine them under oath; access records and information regarding services to children and youth; enter facilities where children are placed by the government; refuse to review or investigate a complaint under certain circumstances; and, publish reports about investigations or other issues.

It is an offence under the Act to obstruct the Ombudsman, fail to comply with a requirement of the Ombudsman, or make false statements to the Ombudsman.

6.7 Newfoundland and Labrador – Office of the Child and Youth Advocate

The Office of the Child and Youth Advocate was established in 2002 under the *Child and Youth Advocate Act*. The Advocate is an officer of the Legislature appointed by the Lieutenant Governor in council for a term of six years, on a resolution of the Legislature. The Lieutenant Governor in council must solicit applications from the general public before making an appointment. The Advocate must submit an annual

report to the Speaker of the Legislature. The Advocate's service mandate includes all children under the age of 16 years; and "youth", defined as young people aged 16 to 19 who are in care under the *Child, Youth and Family Services Act*, and young people under the age of 21 who are in young offender detention or custody.⁴⁵

The functions of the Advocate include: investigating complaints and other matters regarding children and youth; intervening to Advocate on behalf of children and youth through mediation and dispute resolution; conduct investigations in cases where mediation and dispute resolution have not been effective; initiating, or assisting young people to initiate, cases conferences, administrative reviews, mediations and other processes related to government services for young people; meet with and interview young people; conducting public education regarding the needs and rights of young people; and, make recommendations to the government and agencies that deliver government services. The Advocate must also investigate issues that are referred by the Lieutenant Governor in council.

The powers of the Advocate include the ability to: investigate complaints or other matters regarding child and youth; access records and information regarding children and youth; refuse to review or investigate a complaint under certain circumstances; and enter home and facilities where children are placed by the government.

The Act places a positive duty on government service caregivers to forward any correspondence or request to speak with the Advocate immediately. It is an offence under the Act to obstruct the Advocate, fail to comply with a requirement of the Advocate, or make false statements to the Advocate. No one can take legal action against the Advocate for anything that he or she says or reports in the course of duty, unless the Advocate acted in bad faith.

6.8 Rhode Island, U.S. – Child Advocate Office

The Child Advocate Office was established in

1979 under the *Child Advocate Office enactment*. The Advocate is an independent officer of the state appointed by the governor on the recommendation of a multi-disciplinary committee for a term of five years. The Advocate must submit an annual report to the governor and state assembly.

The service mandate of the Advocate includes young people receiving child protection and youth justice services.

The functions of the Advocate include: ensuring that young people in care and custody are informed of their rights; reviewing the procedures of the child protection authorities with an emphasis on the rights of young people; investigating the circumstances of the death of any child who has received services from the child protection authorities; receiving and investigating complaints regarding child protection and youth justice services; conducting reviews of child protection and youth justice facilities; recommending improvements in the services for dealing with young people; providing training for persons appointed as the official guardians of young people for the purpose of court proceedings; reviewing orders of the family court relating to young people; and, taking a range of actions, including public education, legislative advocacy, and litigation, to ensure that the rights of young people in care are respected.

The powers of the Advocate include the ability to: access information and records regarding child protection and youth justice services; communicate with young people by mail or orally; to raise money in addition to that provided by the state; to commence a civil action against the state on behalf of a young person; and to "take whatever steps are appropriate to see that the persons are made aware of the service of the child advocate's office, its purpose, and how it can be contacted".⁴⁶

Under the law, the Advocate, his or her staff and volunteers, and any other person delegated by the Advocate are indemnified from civil liability by the state for actions committed in the discharge of duties.

The 2001-2002 Annual Report of the Manitoba Children's Advocate identified the following challenges related to the office's mandate and powers:

"Time limit to action on recommendations: Perhaps the most serious flaw in the current legislation is that the recommendations of the Children's Advocate do not have to be implemented. Legislation should be amended to require the department and/or agencies to provide the CAO[Children's Advocate Office] with written notification of the steps that will be taken to address the issues that have been identified as a result of a CAO investigation and/or review. If those entities disagree with the findings or recommendations presented by the CAO, they should be obligated to provide a written response outlining their position and rationale for not acting upon a recommendation by the Children's Advocate.

"Publication of Reports: Under current legislation, the Children's Advocate can only issue an Annual Report. At times, this restriction does not allow for the timely dissemination of information regarding issues affecting children and youth. The legislation should be amended to allow the Children's Advocate to publish reports relating to issues affecting children, if the report is in the public interest.

"Investigative Powers: Should the Children's Advocate undertake an investigation, the Children's Advocate should also be able to examine, on oath, any person who may be able to give information.

"Discretion to Investigate: The Children's Advocate should be given the discretion not to investigate complaints, which he/she considers to be frivolous or made in bad faith.

"Mandatory Notification: Currently there is no obligation upon government or service providers to notify children and youth of their right to access the Children's Advocate. Legislation should require that service providers inform the child, youth or other affected family member about the Office of the Children's Advocate.

"Access to Other Ministries: Current legislation restricts the investigative ability of the Children's Advocate to the Child and Family Services system. Given that the children and youth in the CFS system are, or may be, involved with other child caring systems such as Health, Education and Justice, the ability to advise, consult and investigate other departments would enable the Children's Advocate to effectively advocate for comprehensive services that affect a children."

Annual Report of the Office of the Children's Advocate of Manitoba 2001-2002. Manitoba Children's Advocate, 2002, p. 13.

7.0 | Conclusions and Recommendations

7.1 Legislation to Establish an Office of the Child and Youth Advocate

The significant shortfalls in Ontario's Advocacy Office cannot be addressed through administrative changes or minor amendments to the *Child and Family Services Act*. Ontario's advocacy services require a comprehensive process of renewal, including legislation to establish a new Office of the Child and Youth Advocate.

i) Appointment, Accountability & Budget

An effective Advocate must be accountable, but must also be financially and operationally independent from the organizations and services that it monitors. An Advocate appointed as an officer of the Legislature is accountable to the people of the province through their elected representatives, rather than to politicians or public servants who are responsible for child and youth services.

To minimize the role of partisanship and political patronage in the appointment process, legislation should require that the Lieutenant Governor in council make the appointment either on the resolution of the Legislative Assembly, or on the recommendation of a committee of the Legislative Assembly. This requirement will subject the appointment to the input and scrutiny of all political parties, and make the process transparent to the public.

Further, the term of appointment should prevent the appointment and removal of an Advocate within a single term of government. A term of appointment of five years, with the possibility of re-appointment for a second term, is sufficient.

1. **Appointment**—The Advocate should be appointed by the Lieutenant Governor in council upon the resolution of the Legislative Assembly, or upon the recommendation of a committee of the Legislative Assembly. The Advocate should be an independent officer accountable to the Legislative Assembly.

2. **Term**—The Advocate should be appointed for a term of five (5) years, with the possibility of re-appointment for one (1) additional term.

A government can silence an Advocate who is empowered by legislation to speak out, simply by depriving the Advocate of adequate resources to do his or her job. Placing the question of the Advocate's budget with the Legislative Assembly instead of a minister can reduce this risk. The Advocate's budget should be allocated through the same process used for the Auditor General.

3. **Budget**—The Advocate's budget should be determined through a process similar to that used for the Auditor General. The Advocate should present a budget annually to the Board of Internal Economy. Money required to fulfill the Advocate's mandate should be appropriated by the Legislative Assembly.

ii) Reporting

An annual report to the Speaker of the Legislature ensures that the Advocate is accountable to the people of Ontario for its finances and operations. It also provides an opportunity for the Advocate to educate the public about the role and functions of the Advocate, and about

important trends and issues that affect children and youth.

Further, the Advocate must be authorized to release additional reports to the public as required. Such reports may be necessary in some cases to ensure timely dissemination of information regarding an issue of urgency, or simply because the topic of report (e.g. a research report) cannot be addressed adequately within the annual report.

4. **Annual report**—The Advocate should be required to submit an annual report to the speaker of the Legislative Assembly.

5. **Special reports**—The Advocate should be empowered to publish and release to the public any other reports regarding children and youth in Ontario that it deems to be in the public interest.

iii) Mandate

The Advocate's *service mandate*—that is, the groups of children, youth and families that the Advocate is mandated to serve through individual and group advocacy—should be limited to a range of government services in which young people or families are particularly vulnerable. This includes child protection; children's mental health; special needs and developmental services for young people; youth justice; and schools for deaf, blind and learning disabled. Young people and families *seeking* services in those systems, where applicable, must also be entitled to advocacy services.

It is reasonable to limit the Advocate from acting on behalf of young people or families in court proceedings such as custody and access disputes, criminal trials or civil actions. Such a limitation, however, should not prevent the Advocate from providing support to a young person or family who falls within the service mandate and is appearing before an administrative hearing, appeal or review board, etc. Nor should it

prevent the Advocate from referring a young person to appropriate legal counsel or to legal aid.

6. **Included services**—The Advocate should be mandated to provide advocacy services for young people and families seeking or receiving, or subject to the following government services

- All services provided to young people under the *Child and Family Services Act*;
- Arrest, detention and custody under the *Youth Criminal Justice Act*;
- Mental health services for persons under the age of 18 provided under the *Mental Health Act*;
- Schools for the deaf and blind and demonstration schools;
- Residential and community services for children with developmental and other special needs, and their families.

iv) Functions and Duties

The provision of advocacy services directly to individuals and groups is one of the most basic functions that an Advocate can perform. Neither the young people who require advocacy services nor their circumstances are homogeneous. Some may desire clarity about their rights, eligibility criteria for services, or advice to resolve a concern with a service provider. Others may require direct intervention through measures such as mediation and negotiation. In some cases, either because of the urgency of a complaint or because less intrusive measures have failed, a full investigation will be required. To meet this range of needs a continuum of advocacy services must be available.

Individual and group advocacy can also be conducted on a proactive basis. This is particularly useful in high-risk situations such as institutional facilities. Activities such as proactive reviews of facilities establish a rapport between the Advocates and both young people and staff, heighten awareness

of rights within a facility, and allow intervention in trouble areas at an early stage to prevent problems from escalating.

Also, many young people in care will also require advocacy services regarding difficulties and rights abuses that they experience within other service systems. The Advocate must be authorized to act within all services under provincial jurisdiction, including the public education and health care, but only on behalf of young people who would otherwise fall within the service mandate.

7. Individual and group advocacy—The Advocate should establish a continuum of advocacy services for young people and families seeking or receiving services, including

- Provide information, advice and support regarding services; rights; and complaint, review or appeal processes;
- Receive and review complaints regarding services and alleged abuses of rights;
- At the request of a young person or family, make non-adversarial advocacy interventions such as negotiation, mediation and conflict resolution;
- At the request of a young person or family, convene a case conference with service providers, affected persons, and other appropriate participants;
- In response to a complaint or on its own motion, conduct a review of the conditions and practices within a facility, and of the perspectives of young people who live in the facility;
- Conduct investigations into services for young people and families;
- On behalf of a young person who is receiving services, perform any of the above functions in response to complaints and matters that address any service within the jurisdiction of the Province of Ontario, including public education and health care.

Many of the complaints and issues that come to the attention of the Advocate will be influenced by system-wide problems. The Advocate must be empowered to address these problems using a variety of methods to intervene in the service systems at the systemic level.

8. Systemic advocacy—The Advocate should establish a range of systemic advocacy services, including

- Conduct or commission research regarding services for young people and families, and/or the rights, interests and perspectives of young people who receive services;
- Review and comment on legislation, policies or practices regarding services for young people and families;
- Provide advice to ministers and committees of the Legislature regarding services for young people and families.

To realize the full meaning of “advocacy”, the Advocate must not only promote the voice, rights and interests of young people within agencies and facilities, but also in communities. The Advocate should create a range of programs and projects that engage the community in advocacy for youth, and also engage youth as advocates within the community. This may include projects that build capacity for youth participation, or for peer-advocacy or natural-advocacy at the community level. It might also include public education campaigns that promote the rights, interests and perspectives of young people.

9. Public education, capacity building and youth participation—The Advocate should establish a range of public education, capacity building and youth participation activities, which may include the following:

- Conduct public education regarding the rights, interests and wellbeing of children and youth;

- Promote the rights of children and youth, including the UN Convention on the Rights of the Child;
- Establish programs or projects that build capacity for advocacy, education or child and youth participation within facilities, agencies, communities, and ministries of the government;
- Establish programs or projects for the participation of young people who receive services in decisions that affect them.

The prevention of death is a fundamental protection. When a young person does die in care, the Advocate must have an opportunity to examine the circumstances and identify measures to prevent similar deaths in the future.

A death review introduces the scrutiny of an independent body, a measure that is currently lacking when young people die in care. Reviews should be conducted with a special focus on the role of government services in the young person's life. This function is different from the existing investigation and review procedures that are currently performed by the coroner, and should augment, not replace, those procedures.

It is important to prevent any death related to child and youth care services from evading scrutiny. For that reason the Advocate should be required to review all deaths of young people in care, or who were in care within six months preceding death.

Some deaths, however, will not be suspicious or warrant in-depth investigation. For example, the expected death of a young person who was chronically ill likely does not speak to problems in the service system. In such a case the death does not require more than a brief review of records. The Advocate should have the discretion to conduct a simple review of records, or to conduct a formal investigation.

10. Death reviews—The Advocate should be

required to review the circumstances of every death of a young person who was receiving services or received services within six months at the time of his or her death. The purpose of a death review is

- To assess the impact of government services in the young person's life; and,
- To identify what role, if any, government services played in the young person's death.

11. Election, mode of review—Upon the report of a child death by the coroner and the provision of a coroner's report, the Advocate should make an election to conduct a death review

- Informally through a review of records and voluntary disclosures of persons interested in the review; or,
- Formally by conducting an investigation.

v) Powers

The time and resources of the Advocate will always be limited, and it is important to ensure that these resources will not be abused or wasted by improper complaints. The Advocate must have the discretion to refuse or cease to act on a complaint if it is frivolous or made in bad faith.

12. Right to refuse or cease to act—The Advocate should be empowered to refuse or cease to act in response to any complaint made by a young person or family if, in the opinion of the Advocate, the complaint is frivolous or made in bad faith.

Unfettered access to young people and the facilities where they live is essential to the Advocate's ability to communicate with young people and monitor the quality of their care. The right of entry into facilities that is currently implied in subparagraph 103(1)(b)(ii) of the *Child and Family Services Act* must be clarified and extended to all facilities that provide care to young people who are within the Advocate's mandate.

13. Right of entry—The Advocate should be empowered to enter any premises or facility in which young people are placed for care.

In some cases, less intrusive resolution measures such as mediation and negotiation will not be sufficient, or the urgency of a concern will demand stronger action. The Advocate must have the authority to conduct an investigation, including meaningful powers of investigation. Because of the intrusive nature of this measure, it should be available to the Advocate only in limited circumstances.

14. Conduct investigation—The Advocate should be empowered to conduct an investigation

- In respect of a complaint or group of complaints when less intrusive measures have been attempted and have failed to resolve the matter to the satisfaction of the Advocate; or,
- To identify, arrest and prevent conditions or practices that, in the opinion of the Advocate, threaten the life, security or dignity of young people; or,
- For the purpose of a death review.

15. Notice required—Before initiating an investigation the Advocate should provide written notice to the responsible minister(s) and to the administrative head of the ministry, agency or service provider subject to investigation. The notice should indicate the reason for the investigation.

16. Investigative powers—For the purpose of an investigation, the Advocate should be empowered to

- Enter any premises in which services are provided, including a facility or office, and examine or copy any record;
- Summon witnesses and examine them under oath;

- Require a witness to produce records or other things for examination;
- Make recommendations to any department, agency or service provider that is within the jurisdiction of the Province of Ontario.

The power to require a service provider to submit reports on the implementation of recommendations is an important advocacy tool that creates accountability for service improvement. It also imposes a burden on service providers and therefore must not be used lightly. The power to require reports should only be available when the Advocate has conducted a formal investigation, and has benefited from the enhanced information gathering that an investigation brings.

17. Require reports—When an investigation has occurred, the Advocate should be empowered to require any department, agency or service provider to whom a recommendation was addressed to provide reports on the progress of the implementation of that recommendation according to deadlines established by the Advocate.

vi) Protections, Duties and Offenses

As an officer of the Legislature who provides a vital safeguard for vulnerable children, and whose role may at times be contentious, the Advocate must be allowed a sphere of protection within which to conduct his or her duties. In particular, the Advocate must be protected from the threat of civil action that could arise out of the investigation or public reporting functions.

18. Protection from proceedings—No proceeding should lie against the Advocate or persons acting under its delegation for actions taken in the course of their duties that were performed in good faith.

In many cases a young person's degree of access to advocacy services is dependent on the front-line

caregivers in his or her placement. Caregivers have significant control over the supports and resources that a young person will be able to access, including the Advocate. Legislation must place a positive duty on caregivers to ensure young people's access to the Advocate. Specifically, caregivers must be required to notify young people of the existence of the Advocate, and to forward communication from young people to the Advocate without delay.

19. Duty of caregiver—Caregivers in facilities or placements for young people should be required to

- Inform all young people in the placement or facility of the existence of the Advocate; and;
- Forward a communication from a young person to the Advocate without delay. In the case of a letter, it should be forwarded unopened.

Given the Advocate's function of safeguarding the voice, rights and security of vulnerable young people, interference with the functions and work of the Advocate should not be tolerated. No person should be permitted to interfere with a young person's access to the Advocate, or with the conduct of the Advocate's duties. It should be an offense to discourage or prevent a young person from contacting the Advocate, or to obstruct the Advocate.

20. Offenses—It should be a punishable offense for any person to

- Obstruct the Advocate from performing its duties;
- Fail to appear when summoned for the purpose of an investigation;
- Fail to comply with a requirement of the Advocate;
- Make false statements to the Advocate;
- By threats, intimidation or other means, discourage or prevent a young person from communicating with the Advocate.

At present, the coroner is notified of all deaths of young people in custody, residential care, etc. To ensure that the Advocate is capable of carrying out its death review function, the coroner should be required to notify the Advocate of all applicable deaths, and to share information with the Advocate as required.

21. Duty of coroner—A coroner should be required to notify the Advocate of a death of a young person who was receiving services, or who received services within the previous six months, at the time of his or her death. The coroner should also be required to furnish the Advocate with copies of its records and reports regarding the death.

7.2 Next Steps: A Roadmap for Child Advocacy Renewal

This proposal for a new Child and Youth Advocate addresses the need for enhanced advocacy services in the medium and long-term. Short-term measures are also required to address urgent, immediate needs, and to prepare for the implementation of child advocacy renewal.

i) Immediate Actions

Some corrective measures cannot wait the numerous months that will be required to implement child advocacy renewal. The right of young people to know their rights and to know about the Advocacy Office is constant, and cannot be deferred. The lack of information materials on young people's rights must be addressed immediately. Also, young people in care should not have to wait for a sufficient number of staff to become available to respond to their concerns and provide advocacy services.

22. Rights information materials—The government must take immediate action to ensure that rights information materials are produced and distributed to all facilities, foster homes and other

placements. These materials should be age-appropriate in language and presentation. Rights and advocacy information should also be available on the Internet. Every young person in care should be aware of his or her rights, and of the existence of the Advocacy Office.

23. Additional staff—The Minister of Community, Family and Children's Services should consult with the Advocacy Office to determine what additional staff are required to meet demands for service in the short-term. Additional staff should be provided as needed.

ii) Stakeholder Participation

Child advocacy renewal should not only lead to a protection of young people's voices as an outcome, it should also hear the voices of young people throughout its process. The government must create a mechanism for young people to participate in every stage of the creation of a new Child and Youth Advocate. Experts and stakeholders other than young people should also be included.

24. Task force—The government should establish a Child Advocacy Renewal Task Force as a mechanism for the input of stakeholders in the development and implementation of a new Child and Youth Advocate. This task force should include representation from a range of groups that will be affected by the Advocate's services, and experts on child advocacy and child rights. This includes young people with experience in child protection, youth justice and mental health care, and provincial schools; families of children with special needs; experts from non-government organizations; labour representatives; representatives from other advocacy agencies such as the ombudsman and the children's lawyer; and representatives of associations such as OACAS, OARTY, CMHO, and Community Living Ontario.

The mandate of the task force should be to advise the government and Legislature during the drafting, legislation, and pre-implementation phases of child advocacy renewal. Also, the task force should assist in the implementation of the new Child and Youth Advocate by advising the Advocate during the first year of operation.

iii) Transition of Office

Child advocacy renewal should not result in the loss of the Advocacy Office's wealth of skill, expertise and knowledge, nor should it result in a disruption in advocacy service during the transition to a new office. The government must ensure continuity of the Advocacy Office's staff and management throughout the transition.

25. Continuity—During the transition to the new Child and Youth Advocate, the current Advocacy Office's leadership and staff should be mandated to remain in place and continue the functions of the existing office. The Child Advocacy Renewal Task Force, as part of its mandate, should specifically consider recommendations to incorporate the expertise and knowledge of the current Advocacy Office into the renewed Office.

Endnotes

- ¹ Snow & Finlay, 1998.
- ² Secretariat to the Federal/Provincial/Territorial Working Group on Child and Family Services Information, 2001.
- ³ OACAS, 2003.
- ⁴ *Child and Family Services Act*, s. 113.1(1).
- ⁵ Hendrick, 2001, p. 12.
- ⁶ Snow & Finlay, 1998, p. 10
- ⁷ Raychaba, 1993, pp. 76-77.
- ⁸ *ibid.*, pp. 77-78.
- ⁹ *ibid.*, pp. 78-79.
- ¹⁰ *ibid.*, pp. 79-80.
- ¹¹ Snow & Finlay, 1998, p. 11.
- ¹² *ibid.*, p. 15.
- ¹³ *ibid.*, p. 1.
- ¹⁴ Letter from the Honourable A. Anne McLellan, Minister of Justice and Attorney General of Canada, to Roderick Macdonald, President, Law Commission of Canada (14 November, 1997), quoted in Law Commission of Canada, 2000, p. 1.
- ¹⁵ Law Commission of Canada, 2000, p. xiii.
- ¹⁶ *ibid.*, p. 413.
- ¹⁷ Office of the Chief Coroner, 1999.
- ¹⁸ Office of the Chief Coroner, 2001a.
- ¹⁹ Office of the Chief Coroner, 2001b.
- ²⁰ Office of the Chief Coroner, 2002a.
- ²¹ DCI-Canada, 2002, p. 5.
- ²² Chan Durrant Ltd., 2000, p. 9.
- ²³ *ibid.*, p. iii.
- ²⁴ *ibid.*, p. 37.
- ²⁵ *ibid.*, 24.
- ²⁶ *ibid.*, p. 40.
- ²⁷ *ibid.*, p. 43.
- ²⁸ *ibid.*, p. 44.
- ²⁹ *ibid.*
- ³⁰ *ibid.*, p. 13.
- ³¹ American Bar Association, 1995, p. E-1.
- ³² *ibid.*, p. E-2.
- ³³ *Child and Family Services Act*, s. 102.
- ³⁴ *ibid.*, s. 124(7).
- ³⁵ Finlay, 1992, p. 2.
- ³⁶ Ministry of Correctional Services, 2001.
- ³⁷ *Government Efficiency Act*, Sched. N. ss. 18-56.
- ³⁸ See for example the following web page, which contains the only description of the Advocacy Office that could be found on the Ontario government's web site: http://www.infogo.gov.on.ca/paceweb/owa/intersrv_en.disp_service_det?IN_SERVICE_ID=SRV0000319&IN_OFFICE_ID=UNT0001354
- ³⁹ Christianson-Wood & Lothian Murray, 1999, p. 31.
- ⁴⁰ *ibid.*
- ⁴¹ Chan Durrant Ltd., 2000, p. 45.
- ⁴² *Ombudsman and Children's Advocate Act*, s. 12.6(1).
- ⁴³ *Youth Protection Act*, s. 25.
- ⁴⁴ Nova Scotia Ombudsman, 2002, p. 23.
- ⁴⁵ *Child and Youth Advocate Act*, s. 2(f).
- ⁴⁶ *enactment to establish a Child Advocate Office*, § 42-73-9(3).

Bibliography

- Andrews, Y. (2001). *Draft Proceedings of the Youth-Only Workshop; Violence Within: National Roundtable on Abuse and Maltreatment in Canada's Residential Child and Youth Care Facilities*. Ottawa: National Youth In Care Network.
- Chan Durrant Ltd. (2000, June). *A Review of the Office of The Children's Advocate*. Calgary: Author.
- Christianson-Wood, J. & Lothian Murray, J. (1999). *Child Death Reviews and Child Mortality Collection in Canada*. Ottawa: Health Canada.
- DCI-Canada. (2002). *Inquest Touching Upon the Death of Stephanie Jobin, Recommendations of Defence for Children International-Canada*. Toronto: Author.
- Finlay, J. (1992). *Care of Youth at Thistletown Regional Centre, Syl Apps Campus*. Toronto: Office of Child and Family Services Advocacy.
- Hendrick, D. (2001). "Youth Custody and Community Services In Canada, 1999/00". *Juristat*. Catalogue no. 85-002-XIE Vol. 21 no. 12. Ottawa: Statistics Canada, Canadian Centre for Justice Statistics.
- Herbert, M. (1996). *Standing Up For Kids, Case Advocacy for Children and Youth, Strategies and Techniques*. Edmonton: Office of the Children's Advocate.
- Law Commission of Canada. (2000). *Restoring Dignity: Responding to Child Abuse in Canadian Institutions*. Ottawa: Minister of Public Works and Government Services Canada.
- Ministry of Correctional Services. (2001, Nov. 8). Ontario moves to establish one young offender system. News release. Toronto: Author.
- Morley, J. (2001). *Report on the Core Services Review of the Children's Commission*.
- Nova Scotia Ombudsman. (n.d.). *Children's Ombudsman Logic Model*. Halifax: Author.
- Nova Scotia Ombudsman. (2002, March). *Children's Ombudsman; Correctional Services Complaint Process—Staff Resource Guide*. Halifax: Correctional Services Division, Department of Justice.
- Nova Scotia Ombudsman. (2002, September). *Annual Report, April 1, 1995 to December 31, 2000*. Halifax: Author.
- OACAS. (2003). Statistics: April 1, 2001 – March 31, 2002. Retrieved April 15, 2003, from <http://www.oacas.org/resources/casstats.htm>
- Office for Children and Youth. (n.d.). Web site of the British Columbia Office for Children and Youth. Retrieved May 25, 2003, from <http://www.gov.bc.ca/officeforchildrenandyouth/>
- Office of the Children's Advocate (Manitoba). (2002). *Annual Report of the Office of the Children's Advocate of Manitoba 2001-2002*. Winnipeg: Author.
- Office of the Children's Advocate (Alberta). (2001). *Children's Advocate 2000-2001 Annual Report*. Edmonton: Author.
- Office of the Children's Advocate (Alberta). (2000). *1999-2000 Children's Advocate Annual Report*. Edmonton: Author.
- Office of the Children's Advocate (Alberta). (1999). *Children's Advocate Annual Report 1998-1999*. Edmonton: Author.
- Office of the Children's Advocate (Alberta). (1998). *Children's Advocate Annual Report 1997-1998*. Edmonton: Author.
- Office of the Chief Coroner. (2002a). *Inquest into the Death of Paola Rosales – Verdict of the Jury*. Toronto: Ministry of Public Safety and Security.
- Office of the Chief Coroner. (2002b). *Inquest into the*

<p><i>Death of Stephanie Jobin – Verdict of the Jury</i>. Toronto: Ministry of Public Safety and Security.</p> <p>Office of the Chief Coroner. (2001a). <i>Inquest into the Death of William Edgar – Verdict of the Jury</i>. Toronto: Ministry of the Solicitor General.</p> <p>Office of the Chief Coroner. (2001b). <i>Inquest into the Death of Joshua Durnford Verdict of the Jury</i>. Toronto: Ministry of the Solicitor General.</p> <p>Office of the Chief Coroner. (1999). <i>Inquest into the Death of James Lonnee – Verdict of the Jury</i>. Toronto: Ministry of Correctional Services and Solicitor General.</p> <p>Raychaba, B. (1993). <i>Pain...Lot of Pain, Family Violence and Abuse in the Lives of Young People In Care</i>. Ottawa: National Youth In Care Network.</p> <p>Saskatchewan Children's Advocate Office. (2000). <i>Saskatchewan Children's Advocate – 1999 Annual Report</i>. Saskatoon: Author.</p> <p>Secretariat to the Federal/Provincial/Territorial Working Group on Child and Family Services Information. (2001). <i>Child and Family Services Statistical Report 1996-97 to 1998-99</i>. Ottawa: Secretariat to the Federal/Provincial/Territorial Working Group on Child and Family Services Information.</p> <p>Secretariat to the Federal/Provincial/Territorial Working Group on Child and Family Services Information. (2002). <i>Child Welfare in Canada 2000; The Role of Provincial and Territorial Authorities in the Provision of Child Protection Services</i>. Ottawa: Human Resources Development Canada.</p> <p>Snow, K. and Finlay, J. (1998). <i>Voices From Within: Youth In Care in Ontario Speak Out</i>. Toronto: Queen's Printer for Ontario.</p> <p>Voices from Within Monitoring Task Force. (1999). <i>Report of the Voices from Within Monitoring Task Force</i>. Toronto: Defence for Children International-Canada.</p>	<p>Statutes</p> <p><i>Child and Family Services Act</i>, R.S.O. 1990, c. C.11.</p> <p><i>Child and Youth Advocate Act</i>, S.N.L. 2001 c. C-12.01.</p> <p><i>Children's Commission Act</i>, S.B.C. 1997, c. 11 [repealed].</p> <p><i>Child Welfare Act</i>, R.S.A. 2000 c. C-12.</p> <p><i>Child, Youth and Family Advocacy Act</i>, R.S.B.C. 1996, c. 47 [repealed].</p> <p><i>Coroner's Act</i>, R.S.O. 1990, c. C.37.</p> <p><i>Government Efficiency Act</i>, S.O. 2002 c. 18.</p> <p><i>Enactment creating the Office of the Child Advocate</i>, R.I. Gen. Laws § 42-73.</p> <p><i>Mental Health Act</i>, R.S.O. 1990 c. M.7.</p> <p><i>Ministry of Correctional Services Act</i>, R.S.O. 1990 c. M.22.</p> <p><i>Office for Children and Youth Act</i>, S.B.C. 2002, c. 20.</p> <p><i>Ombudsman Act</i>, R.S.N.S. 1989 c. 327.</p> <p><i>Ombudsman and Children's Advocate Act</i>, R.S.S. 1974, as amended.</p> <p><i>Quebec Charter of Human Rights and Freedoms</i>, R.S.Q. c. C-12.</p> <p><i>The Child and Family Services Act</i>, C.C.S.M. c. C80.</p> <p><i>Youth Criminal Justice Act</i>, S.C. 2002 c. 1.</p> <p><i>Youth Protection Act</i>, R.S.Q. c. P-34.1.</p>
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DEFENCE FOR CHILDREN INTERNATIONAL (DCI) is an independent, grassroots organization, founded in Geneva, Switzerland in 1979. Its mission is to promote and protect the rights of the child through international action. DCI has brought attention to the deplorable conditions suffered by the millions of children, including forced labour, prostitution, and trafficking. It has advocated on behalf of individual cases of abuse and exploitation, at the national and international levels, and worked for improved national and international legislation.

DCI played a significant role in the creation and the ratification of the United Nations Convention on the Rights of the Child, which was adopted November 20, 1989. The national sections of DCI continue to monitor the implementation of the Convention in their respective countries. DCI has consultative status with the Economic and Social Council of the United Nations, UNICEF and the Council of Europe.

THE CANADIAN SECTION OF DCI was recognized as part of the Defence for Children International movement in June 1989 and incorporated in Canada as a non-profit organization in 1990. Consisting entirely of volunteers, DCI-Canada cooperates with a number of other organizations working on behalf of the well-being of children in Canada. DCI-Canada has organized meetings, symposia and campaigns to address the health and welfare of Canada's children. DCI-Canada also promotes children's rights at the international level and has supported such projects as the Mapping Our World art exhibit, which toured across Canada, and the Children as Peace-Builders Conference, held in Winnipeg in 2000. DCI-Canada produces written materials about specific children's rights issues and publishes a news bulletin.

Recent activities include the completion of manuals from the Children as Peace-Builders project, planning to extend the network of children's groups engaged in the project, and an ongoing advocacy campaign on behalf of the children of Zimbabwe. Within Canada it continues to support the right of the child to be heard by working in partnership with groups of young people. It also advocates on behalf of the rights of children in Canada with particular emphasis on immigration and refugee issues and in the field of juvenile justice.

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