

**The Role of Child Advocacy in Canada: With Special
Reference to the Province of Ontario**

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1. INTRODUCTION

There are many who believe that children should not have rights. They argue that: children do not have the capacity to handle freedom, responsibility or participation; children are incapable of independent judgement; children do not have the necessary moral capacity; parents must have primacy in determining the best interest of their children. Children are inherently vulnerable and need to be protected. The protection of children is often erroneously equated with children's rights. However, as Anne McGillivray states "child protection is about incapacity...weakness, powerlessness, lack of status, whereas rights are about capacity, will, power and high status."¹ Indeed, she suggests that "it is the status of children and not their vulnerability which promotes their exploitation."² Dr. Paulo Pinheiro, the Independent Expert for the United Nations Secretary-General's Study on Violence against Children reinforces the importance of rights and the ensuing status that rights provide for the protection of children. He states, "Children are not mini human beings with mini human rights. As long as adults continue to regard children as mini human beings, violence against children will persist. Every boy and girl, as any human being, must have their rights completely respected to develop with dignity."³ The notions of childhood as an incomplete state persist. We need to engage children as fully participatory members of society not as adults "in becoming".

We promote the established rhetoric of children as our future and at times this is at the expense of accepting children as citizens of

¹ Transcript of testimony of Professor Anne McGillivray before Standing Senate Committee on Human Rights (September 26, 2005) p. 2.

² McGillivray, (1994). A. Why Children Do Have Rights: In Reply to Laura Purdy. *International Journal of Children's Rights*, 2: p. 243-258.

³ Paulo Pinheiro, Statement by the Independent Expert to the North American Regional Consultation for the United Nations Secretary-General's Study on Violence against Children, Toronto, June 3, 2005, p. 6 (www.violencestudy.org)

today⁴. Children ask that we move past the principles and practice of simple youth engagement and accept them as fully participating citizens. There are four dimensions of citizenship⁵ that need to be achieved for this to happen:

- Rights and responsibilities
- Access to these rights and responsibilities
- Voice and meaningful participation
- Feeling of belonging to one's community and the identity that flows from that sense of belonging

Children understand relationships of power and authority and can articulate (albeit differently) how power is negotiated. They understand, for example, who makes decisions in the context of their family, their school and their peer group. Children communicate differently and have a different social perspective from adults but they can contribute from their unique and valuable point of view to any public debate about them. Children need to be offered the opportunity, when they have the capacity, to influence decisions that will directly or indirectly effect them such as: choices in their day to day living; life space choices; policy, programs or practice that may effect those choices; and laws that frame those policies and practice.

Since ratifying the United Nations Convention on the Rights of the Child (UNCRC) we have made some substantive steps toward a rights revolution for children but have a considerable way to go to create either a Canada or a world fit for children; a world in which "children are loved, respected and cherished, their rights are protected and promoted without discrimination of any kind, where their safety and well-being are paramount and where they can

⁴ Professor Al Aynsley-Green, Children's Commissioner for England, testimony before the Committee, October 10, 2005, as cited in the Interim Report of the Standing Committee on Human Rights, *Who's In Charge Here?*, November 2005, p. 10.

⁵ Judy Finlay, Unpublished Paper presented to the Centre for Children and Families in the Justice System, June 16, 2005. p.7.

develop in health, peace and dignity”.⁶ In our interconnected world, we have to be more than just directors or observers of childhood, we have to be partners with children in their struggles, talking with them and listening to them.⁷ They are the experts of their lived experience. Together with children we can act to effect change.

2. THE CANADIAN COUNCIL OF PROVINCIAL CHILD AND YOUTH ADVOCATES

The Canadian Council Of Provincial Child And Youth Advocates is an alliance of the eight provincially appointed Children’s Advocates from the provinces of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario and Newfoundland and Labrador; the Nova Scotia Children’s Ombudsman; the Commission des droits de la jeunesse from the province of Quebec; and the British Columbia Children’s Officer.⁸

Although the mandates of each Advocate differ, through the Council, they share a common commitment to further the voice, rights and dignity of children. The Council strives to uphold the ideals proclaimed in the Convention on the Rights of the Child⁹.

Through the Council, the members identify issues of mutual concern and strive to develop ways to address the issues at the national level. The Council is working to do this by:

⁶ A World Fit For Children (2002). New York: UNICEF, para. 9.

⁷ Senator Landon Pearson, Rights of the Child in the New Millennium, Whittier Law School Symposium, April 12, 1999, at www.sen.parl.gc.ca/lpearson/index-e.html.

⁸ Canada has 13 Provinces – Alberta, Manitoba, Newfoundland & Labrador, Nova Scotia, Ontario, Quebec, Yukon, British Columbia, New Brunswick, North West Territories, Nunavut, Prince Edward Island, Saskatchewan.

⁹ United Nations. *Convention on the Rights of the Child*. Adopted by the General Assembly on 20 November 1989. Ottawa: Minister of Supply and Services, 1991. Distributed by Heritage Canada, cat. S2-210/199E.

- Increasing the knowledge and understanding of children's advocacy across Canada;
- Identifying areas for common action;
- Influencing policy and practice affecting children;
- Increasing public awareness of child advocacy and children's issues.

Individual Authority and Jurisdiction

Children's Advocates across Canada have different authorities as defined by their unique provincial legislation. The Children's Advocates in Saskatchewan, Manitoba and Newfoundland report to provincial legislatures. The Nova Scotia Children's Ombudsman reports to the Ombudsman, who then reports to the provincial legislature. In Quebec, the Commission reports directly to the National Assembly. The Advocates in Alberta and Ontario report to their respective Ministers within government. The British Columbia Children's Officer reports to the Attorney General. Each functions under legislative authority.

While the authority of Children's Advocates varies from province to province, broadly speaking, Advocates have the authority to become involved in the following activities:

- Work to ensure the rights of children and youth are respected and valued in our communities and in government practice, policy and legislation;
- Promote the interests of, and act as a voice for, children who have concerns about provincial government services;
- Engage in public education;

- Work to resolve disputes, and conduct independent investigations;
- Recommend improvements of programs for children to the government and / or the legislative assembly.

In addition to the above, the Quebec Commission also works to ensure that the principles set forth in the Quebec Charter are also upheld.

Individually and together, members strive to ensure that our children, our most vulnerable citizens are treated with a spirit of dignity, tolerance, respect, and equality.

Background

- The government of Canada announced *A Canada Fit for Children*, a most comprehensive and ambitious framework for promoting children's rights. This document is acknowledged as a "road map to guide Canada's collective efforts for and with children.....it also signals issues and identifies ways to promote and protect children's rights, including greater public awareness of the United Nation's Convention on the Rights of the Child"(UNCRC)¹⁰.
- United Nations Convention on the Rights of the Child believes that children and youth have the right to be heard and they must be supported in achieving their full potential as members of society in the spirit of RESPECT, DIGNITY, EQUALITY, TOLERANCE, ASSOCIATION, PARTICIPATION and OPPORTUNITY.
- There are four key principles that guide the UNCRC. These are: the right to survival and development; the best interest of

¹⁰ United Nations. *Convention on the Rights of the Child*. Adopted by the General Assembly on 20 November 1989. Ottawa: Minister of Supply and Services, 1991. Distributed by Heritage Canada, cat. S2-210/199E.

the child as the primary consideration; the right of the child to be heard and freedom from discrimination.

- The provision of rights ensures that there are fundamental standards in place to protect children from harm and that they are given the appropriate opportunities to develop to their full potential. Rights are provided through international covenants, like the UN Convention on the Rights of the Child (UNCRC), provincial and federal legislation. Child advocates use these protected rights as the foundation for the work that they do. Advocates are on solid footing when they put forward a position on behalf of a child that is based on legislated rights or entitlements. Educating children and youth about their rights assists them in problem-solving with greater understanding and confidence.

Children in Care of the State

- All provincial Child Advocates concern themselves with the most vulnerable children in our society, in other words those taken into care by child protection services – children who have been mistreated, abandoned or neglected, and children who have serious behavioural problems. In some provinces, the organizations are also responsible for young offenders, or children receiving state-administered services in the areas of health, education or public security. In all, over 100,000 children and young people in Canada are in the care of the state.
- All provincial Child Advocates are responsible for ensuring that the rights of children in the care of the State are respected. Their role is to help these children and their families gain access to the services they require, to monitor the quality of the services they receive, and to advise governments on ways to improve those services. Child Advocates must maintain a

general focus on the promotion and defence of children's rights. This involves making the best interest of the child the primary consideration in any actions that affect the child.

- The State has an inalienable responsibility to protect and provide for children in institutional care. One might assume that the standard and quality of care would be equal to or better than familial care. The importance of this is recognized within the UNCRC through Article 3.3 "States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform to the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision". Article 37 also asserts that every child who is deprived of his or her liberty should be provided with developmentally appropriate care that promotes their physical and psychosocial recovery and social reintegration (Article 39). The Convention expressly discourages a focus on punishment and argues for treatment and rehabilitation (Article 40).
- Rights provide standardized expectations to the care and provision of services to young people. This is an essential safeguard. A rights based approach emphasizes both the outcome and the process of achieving goals. This approach recognizes the responsibilities and obligations of service providers in realizing the rights of the child. Empowerment is embedded in and integral to a rights based service approach.
- A rights based approach is in the best interests of the child. Most social policy related to children emphasizes best interest. However, there is no clear definition of best interest which often leads to subjective interpretation by service providers. It presumes equality of power and that service providers do not have personal and financial interests in the outcome of

decisions. Unfortunately, in many circumstances ‘best interest’ becomes what is economically feasible in terms of the provision of services, resources and opportunities.

- National standards addressing the care and culture of institutions is likely to have the most profound impact on the day-to-day care experience and the potential for treatment and rehabilitation.
- Youth believe there is no accountability in the systems designed to protect them. They feel alienated and are not informed of their rights and that there is a lack of transparency within the system. “We recognize that being accountable to ourselves is just as important as being accountable to the system; we hope those who maintain the system will understand this too.” (Ma, 2004)¹¹

Priorities

Voice and Participation

- The voice and participation of youth is essential for the promotion of their development and acquisition of their entitlements. Article 12 of the Convention expresses that young people should be free to voice their opinions and to assert their views on matters that affect them. Young people actively engaged and involved in decision making become invested in their well being which promotes self mastery.
- Youth need to be informed and understand the meaning of rights in order to enact them.
- The actualization of rights is fundamental to self advocacy. Self advocacy promotes interpersonal skill development, conflict resolution, problem solving and other pro social skills. This set

¹¹ Ma, S (2004) – *Just Listen To Me: Youth Voices on Violence*, Toronto: Office of Child & Family Service Advocacy

of skills enables a sense of responsibility to self, peers and those in authority.

- Promoting partnerships and the inclusion of children and young people is consistent with the goal of all Child Advocates to respect the voice and interests of the children and youth they serve. Including young people in decision making processes and ensuring that their rights are protected and respected is a priority that Child Advocates support and encourage in their individual work, their work with families and in their broader community work.
- The UNCRC grants participation rights to children through Article 12 (right to be heard), Article 13 (freedom of expression), and Article 15 (the freedom of association). To assure citizenship in society, there needs to be the fulfillment of voice and participation rights. Participation is an empty process if safeguards are not in place to offer authority to that voice. Children can offer a unique perspective to any debate through a different but equally valuable lens. Their primary relationships with family and community are rooted in powerful dynamics that they know and understand. As such, children are not recognized as citizens with equal human rights and civil rights as these adults. These dynamics render them vulnerable. Their social perspective is conditioned by this vulnerability and attests to the need to elevate their voice, participation and ability to influence. Children's rights are of limited value if their voice is not incorporated into the decisions made by their community or the larger society.
- Social inclusion requires an ideological shift in order to view children as competent individuals, productive members and stakeholders. Power imbalances and notions from adults that children are not yet capable of forming their own views restricts

the process of bringing children and youth into decision making.

- Youth feel alienated from the system. Those institutions that are meant to support and protect them do not include youth in decision making processes, missing opportunities for youth to exercise their right to participation. When youth contributions are included, they are minimized or deemed irrelevant. There may be a “tokenism” of involving youth, rather than seriously including them in decisions. Youth feel they are being “placated” as an attempt to silence them (Ma, 2004)¹².
- Rights-based and social inclusion models of working with youth in care uses the core principals of the UNCRC, bringing it into actual practice. This framework would recognize children as citizens with the right to participate in decisions being made about their life. (Mitchell, 2004)¹³

Children and Violence

- Violence among and toward youth has become an increasing concern in Canada.
- Due to an enhanced societal response to domestic violence there has been an increase in reporting and intervention. Concurrently, there is an increase in the number of apprehensions of children in need of protection. For example, in Ontario, the number of admissions of children to the child welfare system has doubled since 1990 (Lesheid, 2005). Concomitantly, there are daily accounts in the media of youth violence either in the context of assaults directed at family members or at peers. Comprehensive programming has been

¹² Ma, S (2004) – *Just Listen To Me: Youth Voices on Violence*, Toronto: Office of Child & Family Service Advocacy

¹³ Mitchell, R.C. (2004)/ *Promoting resiliency with children and young people in care using a human rights approach*. Draft Paper submitted for Child Welfare League Conference. Ottawa, Canada.

developed to assist children with the dynamics of bullying in schools and dating violence. Also, there are dramatic illustrations of violence among young sports players and/or their spectator parents. Crime prevention strategies are in place to understand gang culture and the increase in aggression among girls. Finally, youth describe the risk involved in institutional care due to the nature and intensity of violence among incarcerated youth. Unfortunately, this spectrum of violence involving youth and its public reporting has contributed to a “villainization” of youth.

- Youth describe the trajectory of violence in their life from “family to system”. They experience or witness violence in the family and then replicate it in schools, group care, in community settings or on the street.
- Young people are particularly critical how abuse of power within institutions leads to violence, citing how youth placed in institutional care are subjected to improper use of restraints...*“Ninety percent of the kids that go in, come out worse than when they went in”*. They believe that youth who travel through our institutional system – from child welfare to group homes to detention centres – often exit the system exhibiting *more* violent behaviours than they did upon entering. They feel that this is partially due to a lack of accountability; not just from adults, but also from young people themselves. (Ma, 2004)¹⁴
- The UN Secretary–General’s study on Violence Against Children attempts to gain an international perspective on the emerging trends, instructive learnings and practices and innovative research across the global community. The North American Regional Consultation facilitated by UNICEF will

¹⁴ Ma, S (2004) – *Just Listen To Me: Youth Voices on Violence*, Toronto: Office of Child & Family Service Advocacy

identify key action priorities at community, national and regional levels. These priorities will address legislation, policy and practice related to prevention, protection, intervention and recovery.

First Nations Children

- Aboriginal children and youth are likely the most vulnerable group of children and youth in Canada today and in the future. They are more likely to be borne into poverty, suffer health problems, be victims of maltreatment, be placed away from their families and communities in the provincial and territorial child welfare systems or be incarcerated in youth correctional facilities.

- Infant mortality for First Nation's infants is roughly twice the Canadian average. First Nations infants die as a result of injuries at four times the rate of non-aboriginal infants (63 versus 17 per 100,000); pre-school age children at 5 times the rate (83 versus 15 per 100,000); youth at three times the rate. (McDonald, R., et al, 2000)¹⁵ First Nation's female youth are 8 times more likely to commit suicide and males, 5 times more likely than their non-aboriginal peers. (Blackstock, C. et al, 2004)¹⁶.

- Aboriginal children continue to be disproportionately affected by poverty across Canada. Aboriginal children, youth and their families living in poverty live in sub-standard housing both on and off reserve. Generally families with low incomes spend a disproportionate amount of their incomes on housing leaving a bare minimum for the other essential of life. This situation can

¹⁵ McDonald, R., et al (2000). *First Nations Child and Family Services. Joint national policy review. Draft Final Report.* AFN & DIANND. Ottawa, Ontario.

¹⁶ Blackstock, C., Clarke, S., Cullen, J., D'Hondt, J & Formsmma, J. (2004). *Keeping the promise: The convention on the rights of the child and the lived experience of First Nations children and youth.* Ottawa: First Nations Child & Family Caring Society of Canada.

contribute to the poor health of children. Families tend to move frequently in search of better housing. Frequent moves affect a child's stability and educational outcomes. (Social Planning Council of Winnipeg, 1999)¹⁷. "Higher mobility rates characterize the aboriginal youth population" with a reported mobility rate 1.4 times higher than non-aboriginal youth. (Social Planning Council of Winnipeg, 1999)

- Aboriginal children and youth growing up in poverty are more likely to come to the attention of child welfare authorities than their non-aboriginal peers. Though provincial reporting statistics vary, the CCPCYA when conducting a review of permanent wards across Western Canada found that in 2000 approximately 46 percent of children in care were Aboriginal children (CCPCYA, 2000). In the western provinces that percentage can increase up to 70 to 80 percent (CCPCYA, 2000). Between 1995 and 2001, as reported by Indian and Northern Affairs Canada, the number of children and youth on reserve moved into the child welfare system has risen by 71.5 percent (Trocme et al., 2004)¹⁸. Many of these children and youth are growing up in care as permanent wards.

Children and Poverty

- Issues of poverty, chronic health problems, limited economic opportunities, lack of affordable housing, access to child care, and low levels of parental education are some factors that affect families and have a direct impact on the child. Government must recognize the intersection of childhood vulnerabilities in these issues and make a real commitment to addressing these within their National Plan of Action¹⁹.

¹⁷ Social Planning Council of Winnipeg. (2004). *Manitoba Child Poverty Report Card*. Winnipeg, Manitoba.

¹⁸ Trocme, N., Knoke, D. & Blackstock, C. (2004). *Pathways to the overrepresentation of aboriginal children in Canada's child welfare system*. *Social Service Review*, 78(4), 577-600.

¹⁹ Government of Canada. (2004). *A Canada fit for children: Canada's plan of action in respect to the May 2002 United Nations special session on children*. Ottawa, Ontario.

3. THE OFFICE OF CHILD & FAMILY SERVICE ADVOCACY PROVINCE OF ONTARIO

The Office of Child & Family Service Advocacy (Advocacy Office), which has been in operation since 1978, is authorized under the *Child and Family Services Act (CFSA)* to protect the rights of Ontario children and families who are receiving or seeking services through the provincial government. The Office advises Ministers on matters that concern children and families. Any student in a residential or demonstration school (Ministry of Education) is also entitled to call the Advocacy Office for help.

The Advocacy Office ensures that children and youth in care know and understand their rights and that the laws that protect them from abuse or harsh treatment are enforced. Advocacy Officers:

- elevate the voice of youth;
- intervene when children, who live outside of their family's care, report abuse or harsh treatment;
- empower children and families to make complaints about unacceptable treatment;
- intercede and speak for children and their families who might not be able to get needed services or solutions without help;
- help communities with complex, hard-to-serve cases where more than one government or community agency needs to be involved;

- look into broader problems affecting groups of children and youth that can only be resolved through changes in the system; and
- put the words of youth into a broader, systemic context – to widen the lens, in effect, so they can help inform and influence policy and decision makers.

Client Group served:

Last year the advocate's office received approximately 3,200 calls and conducted seven reviews. The majority of the calls were about standards of practice for children in residential care, peer-on-peer violence, children living at home with special needs and aboriginal child welfare.

There are approximately 23,000 children in the province's care. The Advocacy Office is responsible for protecting the rights of these children. Our client group includes:

- Youth in conflict with the law (secure custody, detention, open custody, community supervision, probation)
- Children in child welfare care (foster homes, group homes, residential care, family care)
- Children receiving children's mental health services (secure treatment, residential care, treatment foster homes, family care)
- Children with cognitive/developmental disabilities in residential or family care
- (unattached) migrant children

- Street kids (children with no address; in shelters)
- Children residing in the residential schools for the deaf, blind, hard of hearing, learning disabled
- Children with special needs who live at home
- Children with special needs who are in specialized classrooms
- Aboriginal/First nations children on and off reserve
- Children who have died while in care
- Children who have committed the most serious offences

Three Levels of Advocacy:

Case Advocacy

Case Advocacy is to listen, give youth the opportunity to make their own case and self-advocate. It is to help them to access legitimate authority. Advocates help to equalize power base and reinforce staff / management to use their authority appropriately, act responsibly, bring reality to the situation, persist with youth in a consistent manner until meaningful resolution is gained. Case Advocacy is about teaching youth skilful ways to disagree with people, create safety for the youth and safeguards in place.

Systems Advocacy

Systems Advocacy, with a small "s", refers to advocacy initiatives in the context of organizations/agencies or community that will influence programs and practices to benefit children/youth. All systems advocacy is generated by case advocacy. When it is

clear that policies and practice in agencies interfere with the quality of life and development of children and youth, then systemic advocacy is required.

➤ **Policy Advocacy**

Policy advocacy refers to advocacy tactics, strategies and initiatives which target changes to policies and legislation. These advocacy initiatives seek to establish new policies, improve existing policies or challenge the development of policies that diminish resources and opportunities for vulnerable groups of people such as children and youth. Policy generally refers to 'social' policy. Policy advocacy usually seeks to engage various sectors of the government which includes: public servants, bureaucrats, political appointees, elected officials and legislators. All policy advocacy should be generated by case and 's' systems advocacy.

Definition Of Policy Advocacy

"The means by which oppressive systems, policies, and laws that negatively affect labeled groups are challenged and changed"

(Spindel & Nugent, 1993)

Move to independence

Between 1999 and 2003, the Advocacy Office went through a difficult phase. Office Staff, including the Chief Advocate, were facing open hostility from staff at institutions where Advocacy Officers visited and investigated abuses. The Chief Advocate was subjected to stalking and threats to her physical safety. The government at the time, tried to impose a contract on the Advocacy Office that would have effectively eliminated the independence of the office and impede the Office's ability to protect the most vulnerable children in Ontario. In addition to this,

publication of all rights material for distribution to agencies and youth in care was banned. Staffing and budgetary restrictions made it impossible for the Office to function effectively and equitably protect children and youth in the Province. This climate sparked public outrage which resulted in all the media mediums (newspapers, radio and television) reporting on the Government's attempt to 'muzzle' the Child Advocate.

In 2003, a new Government was appointed and the role of the Advocacy Office became a priority for the new government. An independent review called for the Advocacy Office to be an independent new legislative Office, with a statutory mandate, powers and responsibilities that will help to ensure its independence, effectiveness and accountability. In March 2005, the Premier of Ontario, Mr. Dalton McGuinty issued a Press Release announcing the move to independence for the Advocacy Office (see announcement in Appendix A).

With a history that spans three decades, it is important to understand and reflect on critical lessons learned about advocacy in general and child advocacy in particular.

Lessons Learned

- Advocacy is not a skill, nor is it an intervention strategy or practice tool. Advocacy is a lifestyle.
- Advocacy is the catalyst for change – not the change agent.
- The process of advocacy is incremental. Each advocacy initiative builds on the one before. Small successes are incremental.
- Equalizing the power base is a primary function of advocacy.

- In preparing for any advocacy initiative, it is important to estimate the costs involved – both economic and personal costs.
- Create and nurture alliances inside and outside the organization. It offers a multi-layered approach to advocacy strategies.
- Bring courage and dignity to every advocacy initiative. Advocates must anticipate retribution and reprisals for case and systemic advocacy.
- Of paramount importance is to celebrate successes; to be your own historian and consistently tally and record those successes.

4. ACTIVITIES

a) Youth Involvement

The UN Convention on the Rights of the Child (Article 12) states that all children capable of forming their own views have the right to express these views freely. Their voice is to be heard and taken seriously on matters that concern them. This very powerful and far-reaching principle has been observed and embraced by the Advocacy Office.

Today in Ontario many organizations working with young people speak about “youth engagement”. A few years ago those same organizations were speaking about “empowerment”. These are concepts that deal with the manner in which youth are involved in own lives, involved in the structures, systems, and services

affecting their lives and involved in their communities and in fact the world.

The Advocacy Office works with youth who often feel a lack of control over their own lives and life circumstances. This feeling stems from their personal histories, (children do not ask to be abused) and from life in systems that govern their lives, (a youth in care often has no control over what foster home or group home they live in). The feeling of powerlessness can lead to a lack of hope and certainly a negative self perception. Involving youth in the services they receive, giving importance to their experience, and offering youth opportunity for growth and development are critical for a young person to develop a strong sense of self and agency.

Of course involving young people an organization serves will be of huge benefit to that organization. Young people who are consumers of service provide a unique and valuable perspective. They are able to help create a culture of learning and possibility within an organization. Providing young people with the opportunity to contribute to service invigorates an organization, increases the efficacy of service and builds a sense of community and connection.

It is important to understand that involving youth is a process. That is why the Advocacy Office has begun to refrain from using words like “youth engagement” or “empowerment”. The Advocacy simply strives to involve young people in its work.

Two staff at the Advocacy Office are young adults and students who have experience living in the child welfare system. These “Youth Coordinators” are responsible for supporting the involvement of young people in the work of the Office.

Six young people are working with staff from the Advocacy Office and staff from Ryerson University to organize a one day conference in October, 2006 called "Pump Up The Volume". The conference will celebrate the work of the Advocacy Office and celebrate the impending legislation that will make the Office an independent body. Youth from 14 youth led projects from across Ontario will present their work in making a difference in their communities.

The Advocacy Office has an 11 year old volunteer who is assisting with the development of material explaining children's rights geared specifically to children. This young girl will chair a small committee of children between the ages of 10 to 12 years old who will produce a newsletter for children in state care across the province. The "Children's Advisory Committee" is a first initiative to involve children as well as youth in the work of the Advocacy Office.

Youth assist the Office in educating young people about their rights. Young people are trained through the Advocacy Office to create and deliver "Right Way" workshops to youth in a variety of settings across the province.

This year the Advocacy Office is playing a key role in organizing the event called the "Children's Summit". Two hundred young people will meet with 200 adult service providers, government bureaucrats and politicians to discuss a series of topics from youth employment to youth suicide.

A number of research initiatives are underway at the Advocacy Office. A report reviewing the intersection of the youth mental health and youth justice services of the province and a report reviewing the phenomenon of young people in care who find themselves living in homeless shelters are being prepared. Youth are working with staff as key informants to the reports and as

advisors to the research process. Written drafts of these reports will be scrutinized by youth prior to their release.

The United Nations Secretary-General's Study on Violence Against Children is a collaborative effort to gather key learnings, identify promising practices, indicate the gaps therein, and point to opportunities for action to counter the various forms of violence children and young people experience in their families, schools and communities. The Study which will be presented to the UN General Assembly is intended to capture and amplify knowledge from countries around the world.

In 2005 the Advocacy Office participated in the North American Regional Consultation convening over 200 individuals from government and civil societies across Canada and the USA – together with 370 children and youth – to share knowledge about violence against children in a range of settings in North America. It was one of nine such consultations convened by the United Nations around the world.

The Advocacy Office through the Canadian Council of Provincial Child and Youth Advocates, (CCPCYA) in partnership with UNICEF, Save the Children Canada, and the Children's Rights Centre, Cape Breton University began work on the development of the North American submission to the Secretary General's study.

To this end, the Advocacy Office hired a young adult to write a "Youth Report" for the submission. This young person has organized and facilitated a number of focus groups involving youth who have experienced violence and has coordinated similar focus groups nationally. They have also worked with 15 younger youth in care to gather art work from children who have witnessed violence to be used in the report.

The above provides but a snapshot of the ways in which young people are today involved in the work of the Advocacy Office, but because involvement is a process, the projects are always changing, developing and evolving.

b) **Child Abuse**

In Ontario, the *Child and Family Services Act (CFSA)* determines the way in which child protection services are to be delivered. Geographically, in every county or district there is a child protection agency known as “The Children’s Aid Society” or “Family and Children’s Services” responsible for investigating complaints about child abuse, and providing alternate care for children who would not be safe in the care of their parents.

The *CFSA* defines a “child in need of protection” and determines the necessary legal steps required to remove children from their parents’ care and the different periods of time of court ordered alternate care.

The *CFSA* sets out particular rights to children and youth who are in the care of Children’s Aid Societies, which include: the right to have visits and exchange letters with family members, unless prohibited by the Court; the right to speak in private with the child’s lawyer; the right to speak in private with a Child Advocate from the Office of Child and Family Service Advocacy; the right to an education; the right to practise their religion; the right to recreation; the right to have their rights explained in a language and at a level the child can understand; the right to know the rules, and the consequences for not following the rules; the right to have their placement reviewed by the Residential Placement Advisory Committee if they are not happy with a current or proposed placement.

The Office of Child and Family Service Advocacy does not investigate complaints of child abuse, but has a professional duty to report suspected abuse to the appropriate Children's Aid Society, ensure appropriate follow up by that agency and ensure that the rights and entitlements of children (listed above) are respected.

c) Peer Violence (Bullying)

J.L. was a young person who died in 1996 in an Ontario young offender facility. Another young person, also an inmate of the same youth justice facility, was convicted in connection with J.L.'s death.

The jury at the Coroner's inquest into the death of J.L., recommended that, "the Office of Child and Family Service Advocacy [be] encouraged to develop a process of facilitating exit interviews of young offenders to ascertain the prevalence of peer-on-peer violence and bullying". Reviews of children's residences and custody facilities [also called "exit interviews"] have been conducted by the Advocacy Office since 1992. The purpose of an Advocacy Office review is to gather information in a systematic way about youth perceptions of the care they receive while in care/custody and to present the information and recommendations to the management of each facility/institution for their response and to the Ontario government. In addition to the exit interviews process, the Advocacy Office has ensured that youth have had "standing" in two inquests into the death of youth at correctional facilities in which peer violence was a factor. The Chief Advocate has written a series of research articles on peer violence in youth justice facilities. In response to initiatives by the Advocacy office, action taken by the government includes the development of the Peer Violence Inventory (PVI) screening tool and the development of outcome measures targeted towards reducing peer violence.

d) Children with Special Needs

Over the past ten years, the Advocacy Office has seen dramatic changes in the complexity of needs of many children in Ontario. These children often have neuro-developmental disorders, medical complexity and/or cognitive impairments. The complexities not only create significant stressors on the family, but provide considerable challenges to educators and service providers as well. In some cases, families have had to child welfare agencies to access services, necessitating the relinquishing of parental rights.

Historically, the Advocacy Office has played a significant role in locating and engaging services for some of the most complex cases in the province of Ontario. At times this meant referring families to the appropriate services, however in most cases the Advocacy office played a brokerage role. This meant bringing relevant service providers to the table in an effort to develop a treatment plan. In 2000, the Advocacy Office reported to the Government, the dilemma faced by families with special needs children. Parents were forced to give up guardianship of their children to child welfare agencies in order to receive appropriate services. Parents couldn't afford the costly medical services. The government introduced policy directives that temporarily remedied the situation. However; this dilemma prevailed until 2005, when the Minister announced that all parents would have their parental rights restored without a change in services for their special needs children and that the Government was moving ahead to improve the system. This initiative required and continues to require constant vigilance on the part of the Advocacy Office.

e) Intrusive Procedures

Over the past fifteen years, the Advocacy Office received numerous complaints from youth and professionals regarding the use of physical restraints either through calls of complaint to the Office or the result of reviews of provincial institutions. Injuries reported due to restraints ranged from scratches, bruises, broken bones and even death. In the 1990's two youth died as a direct result of a physical restraint from staff.

The focus of the intervention by the Advocacy Office was: 1) to prevent the reliance of intrusive measure as the primary needs of behavioural intervention and 2) to ensure the safety of youth. In 1998, the Office released the "Voice from Within" report which voiced concerns of three hundred and fifteen youth in care across Ontario. One of the main issues voiced by the youth was their concern over physical restraints.

The government's response was two fold: 1) a policy directive in 2001 and 2) the regulatory amendments of the facilitating *legislation* in 2003. Some of the key regulatory amendments included a prohibition of the use of restraints for the purpose of physical punishment and the direction that physical restraints can only be carried out if there is a clear and imminent risk to the youth or others and it has been determined that less intrusive measures have been ineffective. These amendments also included mandated training of all staff in the use of physical restraints and closer monitoring by the Ministry on every occurrence of restraint.

f) Cross-Over Kids: From Care to Custody

A study was conducted by the Office of Child and Family Service Advocacy to understand, from the perspective of youth, the types of residential care settings experienced in their placement history;

factors which influenced the commission of their first offence; factors unique to child welfare that influence youthful offending **and** to enlighten care providers about the impact of critical life points in the history of vulnerable youth.

Findings:

- Youth experience multiple, increasingly restrictive placements (up to 13 different placements by their 16th birthday).
- The trauma of leaving home was viewed by youth as the most significant trauma experienced in their life course.
- The relationship with child welfare worker was viewed by youth as critical and they would act out behaviourally while in group care in order to ensure a response from their worker.
- Group homes were viewed by youth as gateways to custody as they often received their first charge while residing in a group home. These charges were acquired due to their acting out behaviour in the residence.
- Youth could describe critical life points. If meaningful intervention had have taken place at those points in their developmental trajectory, they believed that they may have avoided intervention by the youth justice system.
- Kids cross over from system to system because services to children are fragmented and not child centred.

Quotes from youth:

“I think the main reason is that if you take a kid away from the family and put in a group home that they don’t want you in society...you are not wanted...they don’t want you to feel part of society. What does it teach you? That you are not wanted...that you’ll always be useless...never will contribute to society...will always be in a group home. Makes you feel stupid and useless...”

“Group homes are gateways to jails...that’s what they are...they’re just stupid...they don’t help kids...they just make it worse. You’re young and they try to make it like you are old...like you’re in a prison...it’s stupid...early bedtime...have to make your own meals...lights out and menus...outings you don’t want to go to ...staff don’t give a shit...limit family visits...community time...they don’t give you a chance to be normal.”

“Group homes teach kids not to care...I’m already in trouble. I might as well do something else...I know tons of kids from group homes who are right where I am now (jail).”

g) Navigating the System

Children and young people with mental health/behavioural needs; intellectual/physical challenges or psychiatric conditions find their way into mandated services such as youth justice and child welfare; the residential care system; or even the streets because they are disconnected from community resources at the time when they are seeking assistance. The system of service for children and youth in Ontario is complex, fragmented and often difficult to access by youth, family members and service providers alike. The Advocacy Office has struggled for decades to navigate across service sectors, within and across Ministries and between levels of government on behalf of children, youth and families.

Upon request from the Government, the Advocacy Office developed a framework that serves as a catalyst for discussion about the required changes across governmental jurisdictions and service sectors.

h) Overuse of Medication

In discussing consent, capacity and confidentiality with regard to medical treatment and young people, there are some basic principles which guide the work of the Advocacy Office. These principles include: ensuring autonomous decision-making, presuming capacity, properly assessing capacity, developing capacity in children, understanding that consent is a process, obtaining valid consent, and ensuring that children are provided with confidential health services.

As a result of the ambiguities in *legislation and policy* related to use of medication and the consent process, areas of specific concern have arisen: 1) Psychotropic medications may be prescribed immediately upon entry in the “system”, 2) Informed consent may not be requested, 3) medications may be used as quick and easy alternative, 4) Use of medication may be used as method of behavior management resulting in over-medicating if non-compliant behavior continues, 5) the healing of the client may not be addressed often times resulting in the client developing a chemical dependence as a means of dealing with life issues. Youth have reported to the Advocacy Office that they were feeling “*over medicated*” in residential facilities, not knowing why they were taking medication, what the medication was intended to do, or being forced to take their medication or face behavioural sanctions. Many reported feeling “*completely sedated most of the time*”. The Office has taken steps to address the rights of young persons.

i) Why Youth Run Away from Institutions

This year, the Advocacy Office did a study to understand the phenomena of running away from residential settings in Ontario, from the perspective of youth in care. Interest in the study of running behaviour has been longstanding because of the

frequency with which it is reported by youth. Furthermore, Advocates were concerned about the wellbeing of youth who run from residential settings to unsafe circumstances. For these reasons the Office undertook to understand the phenomena of running away from the perspective of the youth.

What emerged from this study is the primary importance of appropriate placement opportunities, meaningful programming, ongoing therapeutic involvement, youth engagement, contact with families, and the creation of residential environments in which youth feel they are cared for, their voice is heard, and they are respected. Four common themes emerged consistently from the youth: the importance of youth engagement in all aspects of programming and treatment; residential settings that are too restrictive and lack emphasis on incentives; youth not feeling safe and staff's inability to respond therapeutically when youth are at imminent risk.

5. OTHER INITIATIVES OF THE ADVOCACY OFFICE

Youth Justice Mental Health Project

A long-standing concern of the Advocacy Office is that there is an over reliance on the youth justice system to manage youth with complex mental health needs and/or challenging behaviours. This is evidenced through the Advocacy Office's interventions at both the case and systemic levels of advocacy. The youth justice system, in many of these situations, is not equipped to provide therapeutic supports to these youth. Alternatively, that system manages troubling behaviour of such youth with the use of secure isolation units or other intrusive procedures. Service providers within and outside of the Ontario youth justice system concur that these practices are not in the best interest of youth and are not

consistent with the intent and principles of the *Youth Criminal Justice Act (YCJA)*. The focus of this project will be young people who are in conflict with the law and are receiving or need to receive services from children's mental health including those youth with a dual diagnosis.

Unaccompanied Migrant Children Under the age of Sixteen Years

Over the past number of years, considerable attention has been paid to the fate of children being illegally smuggled into Canada en route to the United States. This attention has provided a backdrop to the concern regarding children entering Canada who appear to have no guardians available to provide care for them. An intergovernmental, Intersectoral task force has been preparing protocols to address the needs of these separated children in Ontario.

“Just Listen To Me”

Just Listen to Me is the first report of its kind (available on-line www.children.gov.on.ca) that presents an honest and graphic picture of the pervasive nature of violence in the lives of Ontario's young people—as told in their own voices. With astute insights into the causes and consequences of violence, as well as a list of recommendations for change, *Just Listen to Me* delivers the views and experiences of young people regarding an issue that concerns everyone—especially youth themselves.

Youth Partners Project

The Youth Partners Project was done to offer direct care staff, policy makers and other service providers, insight into the lived experience of Canadian youth in secure custody facilities. The Project makes specific recommendations based on youths' direct

comments about their care to the Advocates and their institutional life pathway. The recommendations are framed by the overarching principles that informed the project.

The findings suggest that many youth move along a continuum from the child welfare system to the youth justice system. They experience little or no continuity of care, no clarity about who is responsible for their long-term care, rehabilitation or reintegration and consequently they lack a sense of belonging.

The report analyzes eight care domains including: the provision of basic care, the care for young people provided by staff, rights of young people, programming, behaviour management, peer violence, community and family support and makes recommendations for each care domain.

December, 2006

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(* Available upon request from advocacy@idirect.com)

March 8, 2005

McGuinty Government Moves To Make Ontario's Child Advocate Independent

Delivering On Key Commitment To Vulnerable Children And Youth

QUEEN'S PARK - The McGuinty government will introduce legislation this spring that, if passed, would better protect the interests of vulnerable children and youth by establishing an independent child advocate in Ontario, Children and Youth Services Minister Marie Bountrogianni announced today.

"There can be no room for political interference when it comes to the rights of our youngest citizens," said Bountrogianni. "This legislation would entrench the rights and voices of children and youth to an extent never before seen in Ontario."

The planned legislation would make the child and youth advocate an officer of the legislature and as independent as the auditor general. Under the new law, the advocate would be selected by an all-party legislative committee and report directly to the legislature. Currently, the advocate reports to the Minister of Children and Youth Services.

"We are committed to giving our children and youth a stronger voice," Bountrogianni said. "In addition to affirming the role of the advocate, the McGuinty government is the first to establish a dedicated children's ministry to ensure our young people have a seat right at the cabinet table."

A third-party review of the advocate's office was initiated by Bountrogianni last year. The review provided research and recommendations on ways to enhance the advocate's independence to better protect the interests of children and youth.

"Elevating the position of the child and youth advocate to the same level of independence as the auditor general sends a powerful message that this government is serious about accountability and transparency," said Judy Finlay, Ontario's Chief Advocate for the past 14 years.

The child and youth advocate speaks on behalf of Ontario's most vulnerable young people, including children, youth and families involved with the justice system, foster, group or residential care, or with physical and developmental disabilities.

"An independent advocate will help ensure that the laws that protect children and youth from harsh treatment and abuse are enforced," said Mark Monette, former Crown ward and member of Youth Piece.

"This planned legislation delivers on a key commitment of this government and a promise we made to Ontario's children and youth," said Bountrogianni.