

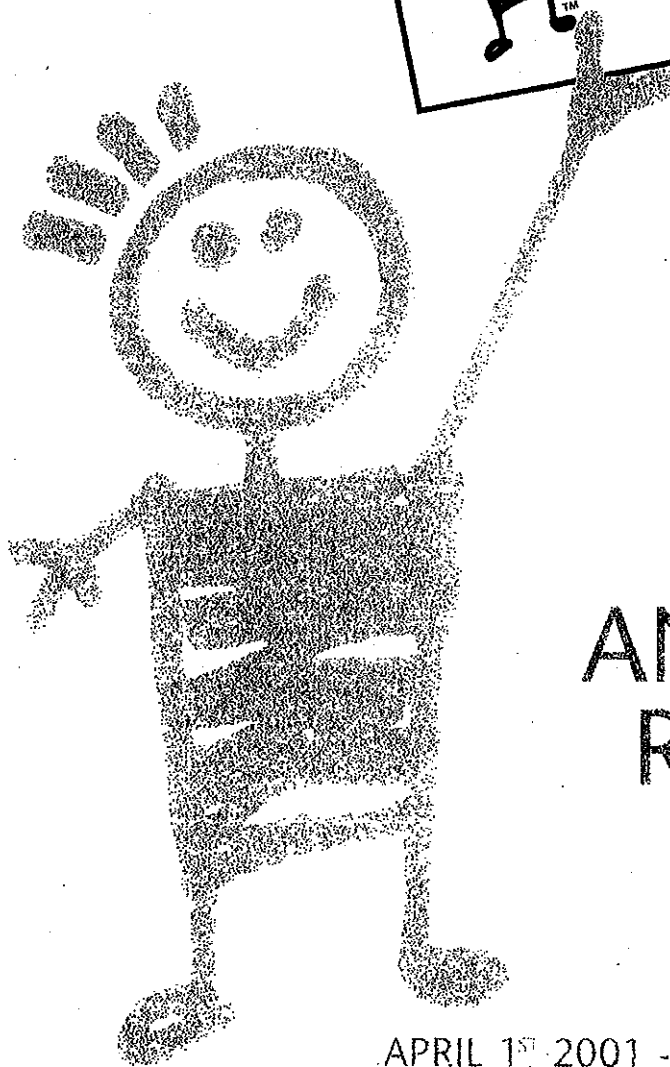


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COMMISSION OF INQUIRY INTO THE CIRCUMSTANCES  
SURROUNDING THE DEATH OF PHOENIX SINCLAIR

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**Commission Disclosure 0217**



# ANNUAL REPORT

APRIL 1<sup>ST</sup> 2001 - MARCH 31<sup>ST</sup> 2002



# Annual Report of the Office of the Children's Advocate of Manitoba 2001 – 2002

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## FORWARD

# The History and Role of the Children's Advocate in Manitoba

The Office of the Children's Advocate (OCA) was originally created under *The Child and Family Services Act* and proclaimed in 1992. The office operated under the umbrella of the Department of Family Services and the Children's Advocate reported to the Minister of Family Services. In 1996, consistent with legislative requirements, an all-party committee was established to conduct a review of the office.

On March 15, 1999, in response to recommendations arising from the review, the Office of the Children's Advocate became an independent office of the Legislative Assembly. It currently operates in an arm's length relationship with the child and family services system. It exists to represent the rights, interests and viewpoints of children and youth who are receiving, or entitled to receive, services as prescribed under *The Child and Family Services Act* and *The Adoption Act*. The Children's Advocate is empowered to review, investigate and provide recommendations on matters relating to the welfare and interests of these children. The Children's Advocate prepares and submits an annual report to the Speaker of the Legislative Assembly.

On March 29, 1999, the Lieutenant Governor in Council appointed Janet Mirwaldt as the Children's Advocate on the recommendation of the Standing Committee of the Assembly on Privileges and Elections. Ms. Mirwaldt was re-appointed on March 29, 2002.

## The Importance of Having a Children's Advocate

Advocates challenge the system. They point out current practices, policies or legislation that are not meeting needs and expectations. Advocates work for change ... and change is not always easy for people to accept. Advocacy can create tension, but can improve the system.

Children especially need advocates. They cannot vote. They live in a world where adults make decisions about their lives. They have a voice but they have virtually no legal power to make anyone listen to that voice. Our experiences speaking with children and youth in the child and family services system have shown us they often feel they have no say in what happens to them.

Our mission is to animate their voices and ensure their rights, interests and viewpoints are valued, respected and protected. Our advocacy efforts and services are child-centred, family-oriented and anchored in the community. They are delivered in an ethical, culturally sensitive and respectful manner.



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## A Message from the Children's Advocate of Manitoba

This Annual Report marks the completion of my first term as the Children's Advocate. I was appointed for a second three-year term on March 29, 2002.

During the time period covered by this Annual Report, the OCA completed a feasibility study entitled "The Need for Children's Advocacy in Northern Manitoba." The International Forum for Child Welfare (IFCW) awarded the Office of the Children's Advocate top international honours for our information material. The Children's Advocate website was launched on November 20, 2001. We were able to arrange for the continuation of the Right Way's interactive pilot workshops about rights for youth. The co-chairs of the Review Panel on Common-Law Relationships in Manitoba invited the Children's Advocate to make a presentation 'on a series of issues respecting persons in common-law relationships, including gay and lesbian couples.'

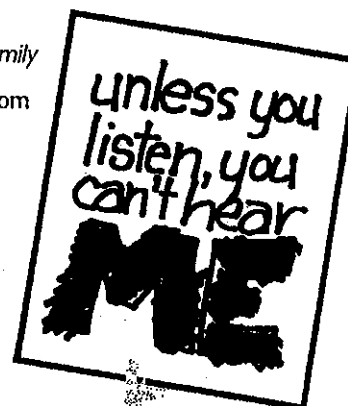
I am pleased that confidence and trust in the Office of the Children's Advocate (OCA) continues to grow and is being reflected by an ever-increasing number of people who are seeking the assistance of the Children's Advocate. Total annual requests for OCA assistance have increased by 80 % since the office gained its independence from the Department of Family Services.

At the same time, enormous changes are taking place in Manitoba's Child and Family Services System (CFS) as the system moves towards devolution. The devolution of the CFS system means the responsibility for children and families served by the system will ultimately be shifted to their respective communities. The OCA must also be in those communities. It cannot be in those communities with only four advocacy workers who are based in Winnipeg. The OCA requires an enhanced presence in Southern Manitoba and the creation of a visible presence in Northern Manitoba.

As the CFS system changes, the OCA will have to adjust. However, we simply do not know with certainty what changes, if any, will take place regarding the structure of the Children's Advocate in relation to the new CFS system. Regardless of what changes occur in the CFS system, an independent, adequately resourced and empowered Children's Advocate remains vital in ensuring that the rights of all children and youth are fully protected.

In accordance with Section 8.2 (1)(d) of *The Child and Family Services Act*, I respectfully submit my Annual Report for the period from April 1, 2001 to March 31, 2002.

Janet Mirwaldt





## Evolving Devolving Times

The Commitment  
and Resources for  
Children's Advocacy  
Needs to Function Effectively  
in a Devolved CFS System

'Advocacy alone cannot ensure that children's needs are met, but it can, however, be a significant factor in ensuring that children have access to these services. It is not a matter of race, income, or handicapping conditions, and that the services do what they are supposed to do. The reality is that as long as the bureaucracies that deliver children's services exist, there will be the need for sustained attention to the way the system functions and malfunctions and, in turn affect children.'

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\* (Knitzer, J. (1976) Child Advocacy: A Perspective. *American Journal of Orthopsychiatry*, 46(2) 200-216.)

## **The Importance of Independence:**

### **Having an Independent Children's Advocate Is important to Manitoba's Child and Family Services System**

As stated in the Children's Advocate 2000-2001 Annual Report,

*'Devolution is an opportunity for change for all children, youth and families involved in the child and family services system' (p.18).*

The AJI-CWI Joint Management Conceptual Plan (May, 2001) states that in the newly devolved CFS system,

*'The Children's Advocate office will take an enhanced role among the Authorities, while maintaining its independence and discretionary authority' (p.24).*

What does this mean?

How will this be accomplished?

It is now more important than ever that the Office of the Children's Advocate (OCA) remains a strong and independent support system for all children, youth and their families during and after devolution. The ability of the OCA to monitor the Child and Family Services system, and other related child-serving systems ensures that the individual child's rights are protected and realized. In addition to holding the CFS system accountable to those children, youth and families who receive services, the OCA also makes this system accountable to the Legislative Assembly and, through it, to the people of Manitoba.

To be effective, the OCA must be able to set and pursue its own agenda and conduct its affairs independent of government and other individuals, organizations, departments or authorities.

The OCA must be able to publish its reports with recommendations that cannot be influenced or changed by government or any other body. The OCA's role and responsibilities must remain defined by legislation and administratively managed by the Children's Advocate.

## **Effective Advocacy Requires Adequate Resources**

As the OCA at times may comment critically on the actions of child and family service providers and government with respect to children, its funding must remain free of other agency, departmental or governmental controls and be guaranteed for a reasonable period of time.

Currently, the OCA submits its yearly budget estimates for review and approval to the Legislative Assembly Management Commission (LAMC), which is mandated through *The Legislative Assembly Management Commission Act*. The Legislative Assembly, to which the OCA is accountable, provides funding. The LAMC membership includes The Speaker, who acts as the 'presiding Commissioner; four MLAs appointed by Government Caucus (or, in the event of two or more opposition parties five MLAs appointed by the Government Caucus); three MLAs appointed by the Official Opposition Caucus; and where applicable, one MLA representing the largest other opposition caucus. The Clerk of the Assembly is the Secretary of the Commission' (Legislative Assembly of Manitoba April 2000).

In order to be independent, accessible and accountable the OCA must be adequately resourced and staffed to fulfill its jurisdictional responsibilities. The OCA is not being sufficiently funded. Adequate funding of the OCA is critical as the Child and Family Services system devolves. Under devolution the OCA will be required to collaborate with four new separate authorities and an executive support unit of the department, while maintaining its current relationships with CFS agencies and the children, youth and families the OCA serves.

## **The Children's Advocate Needs Clear, Comprehensive and Adequate Powers**

Currently, the authority of the Children's Advocate is restricted to the child and family services system. The powers of the OCA under current legislation are largely sufficient to accomplish what is commonly referred to as 'single target system advocacy'. There are, however, areas of deficiencies in current legislation that should be addressed to enhance advocacy efforts.

These include:

- **Time limit to action on recommendations:** Perhaps the most serious flaw in 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 OCA with written notification of the steps that will be taken to address the issues that have been identified as a result of an OCA investigation and/or review. If those entities disagree with the findings or recommendations presented by the OCA, 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 members 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 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 government departments would enable the Children's Advocate to effectively advocate for comprehensive services that affect children.

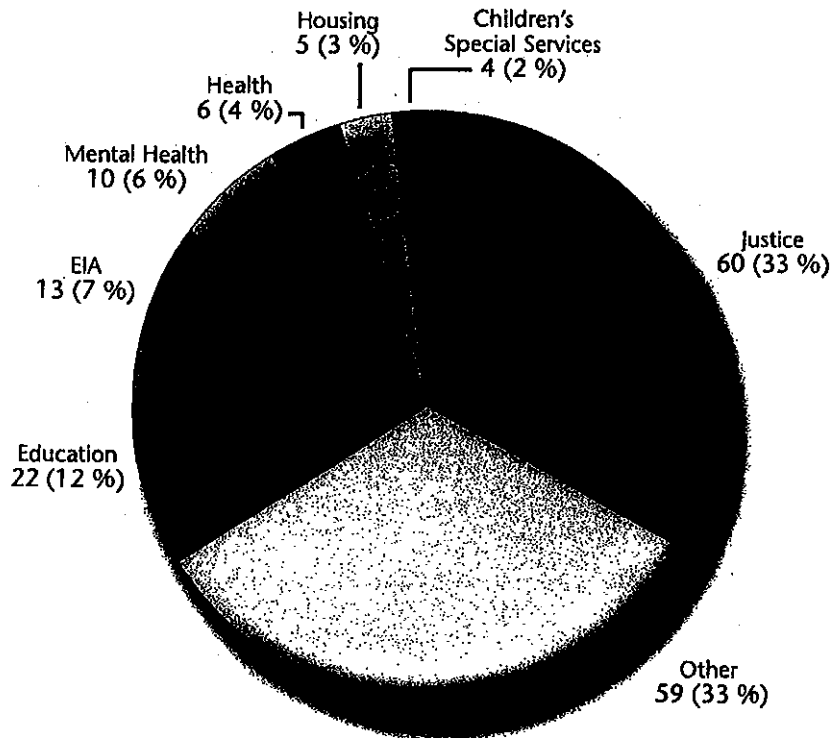
## The Need For An Expanded Mandate for the Children's Advocate

Currently the mandate of the OCA is restricted to the Child and Family Services system. This means that the OCA can only animate the voices of children and youth who are receiving, or entitled to receive, services under this system. As a result, vulnerable children and youth involved in other systems such as Justice, Health or Education, and who may require advocacy services, cannot access the Office of the Children's Advocate.

At-risk children, youth and their families do not access services solely from the Child and Family Services system; they access many child-serving systems. All of these systems assume diverse responsibilities, limitations, interests and lines of accountability. It is unrealistic to assume that the interests of children and youth and those of any one system will always coincide. If a child or youth has a right to receive advocacy services in one system, he or she should enjoy that right in other systems as well. The right should be centered on the child or youth, not upon which service(s) he or she is accessing.

The OCA put forward a conceptual paper to government outlining the need to expand advocacy services to all children and youth. An expanded mandate for the OCA would ensure that there would be an independent body focussing its efforts on ensuring that due consideration is given to the needs, interests and viewpoints of children and youth across all child-serving systems.

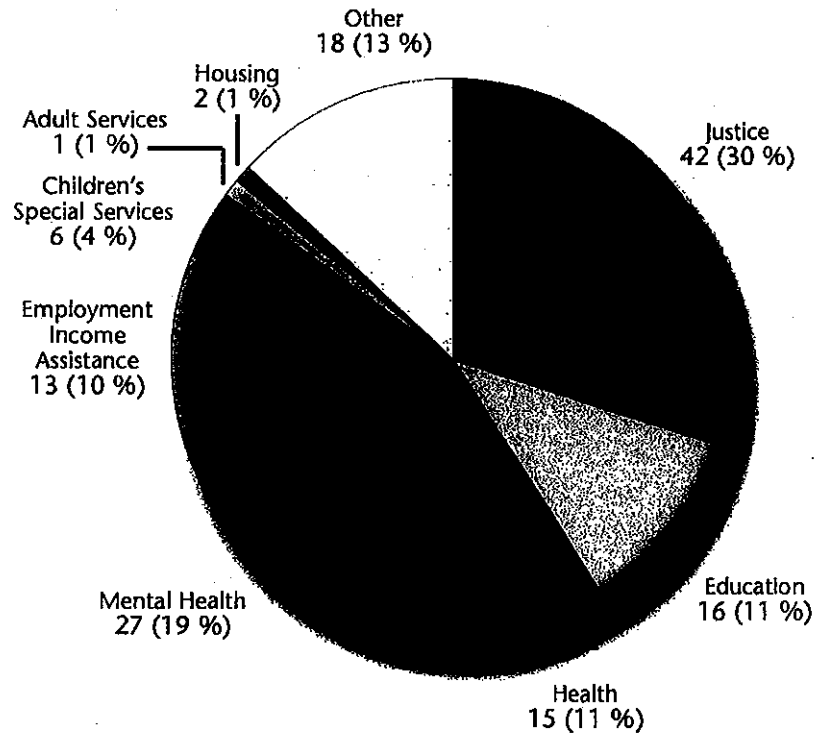
## Out of Scope Cases



This year, 179 ISAA (Information Self-Advocacy Assistance) cases (21% of the total 849 cases) had to be closed when it became apparent that the concerns raised were beyond the OCA's authority to provide assistance under the mandate set out for the Children's Advocate under *The Child and Family Services Act*. We refer to these cases as being 'out of scope'.



## Dual Mandate Cases



One hundred and forty cases (16.5% of the total 849 cases) opened during the year involved children and families receiving CFS services who had issues and challenges involving government departments and agencies beyond CFS jurisdiction. We refer to these cases as 'dual mandate' because they involve the CFS system as well as one or more other government child-serving system. OCA authority is limited to the CFS portion of their case.

## Advocacy in the Justice System:

### An Example of the Need For an Expanded Mandate for the Children's Advocate

As noted in the pie charts on pages 15 and 16, 30% percent of OCA dual mandate cases and 33% of our out-of-scope ISAA cases involved justice issues. Justice issues are often related to CFS involvement following the release of a youth from the youth justice system. While a small percentage of these youths are detained in youth correctional facilities, many more are released to the community. Beyond legal representation, which restricts itself to the court process, youth often have no one to advocate for them.

Historically, the OCA was created partly in response to the Aboriginal Justice Inquiry's recommendation that an independent Office of the Children's Protector be established for children in the child welfare system. However, youth in the justice system are as vulnerable as those in the child welfare system and may require similar advocacy support services. The OCA believes many of the young people involved in the justice system have received or are receiving services from the child and family services system.

## Conclusion Regarding the Need for an Expanded Mandate

This year, over 30% of the children and youth with whom we worked had issues and concerns with services provided by departments and agencies beyond CFS. We cannot advocate or assist them in the areas beyond those covered by CFS.

While children and families may have other avenues of assistance available to them, one must keep in mind that our cases often involve people in challenged, disadvantaged or vulnerable circumstances. The people already feel overburdened by seemingly endless levels of government bureaucracy that they largely view as 'uncaring'.

*\*Advocacy is an interdisciplinary exercise and cannot be complete without taking into account all facets of the child's life ... fragmented advocacy limited to one system perpetuates our past errors of devising partial solutions without taking into account the long term complex needs of a child!\**

<sup>2</sup> Westman, Jack (1979). *Child Advocacy: New Professional Roles for Helping Families*. (New York: Free Press Pub.)

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It would be much more productive for a child or youth experiencing challenges with many service providing systems to have one consistent source providing assistance who has the authority to act in the best interests of the child across jurisdictions.

It is vital that the OCA has the authority to act across the widest possible range of policies affecting children. Children use a wide range of services but there is often a lack of integration or collaboration in the development of policies and services that may affect them. An expanded mandate for the OCA would facilitate a more effective overview on the overall impact of government policy on children, and in turn encourage greater coordination between government departments, service providers and community organizations.

An expanded mandate would require the creation of a separate and distinct piece of legislation that would provide the Children's Advocate with the authority to advocate for children and families across government departments and agencies.

## **The Children's Advocate Must Be Accessible In All Parts of Manitoba**

The devolution of the CFS system means the responsibility for the protection and services to children and families served by the system will ultimately be shifted to their respective communities. The OCA must also be in those communities. It cannot be in those communities with only four advocacy workers who are based in Winnipeg.

The OCA requires an enhanced presence in Southern Manitoba and the creation of a visible presence in Northern Manitoba.

In September 2001 the OCA completed a feasibility study entitled *The Need for Children's Advocacy in Northern Manitoba*. Consultations took place with community leaders and service providers in and around Cross Lake First Nation, Mosakahiken Cree Nation, Nisichawayasihk Cree Nation, Norway House Cree Nation, Opaskwayak Cree Nation, The Pas and Thompson.

Based on the consultations, the study recommended, in part, that

- the OCA establish sub-offices in the City of Thompson and the community of Opaskwayak Cree Nation;

- the mandate of the OCA be expanded to allow advocacy services to be provided to all children and youth who receive services from other child caring systems, provided by or funded by the provincial government;
- the OCA remain an Independent Office of the Manitoba Legislative Assembly; and,
- OCA resource levels be increased as they were inadequate to effectively serve Northern Manitoba at present and the OCA would be further challenged to meet the increased needs required by working with more agencies and authorities as a result of devolution.

The OCA submitted a proposal to the Legislative Assembly Management Commission (LAMC) for funding to enact the recommendations in November 2001. Unfortunately, funding for this request was not granted.

## **Conclusion to Evolving in Devolving Times: What the Office of the Children's Advocate Will Require to Help Children, Youth and Families in a Devolved CFS System**

The ultimate effectiveness of the OCA rests on its ability to 'act independently, produce well-researched information, exhibit a credible and respected public presence and to respond effectively to important issues affecting children'<sup>3</sup>

The essential elements for the effective functioning of the OCA require:

- continued independence;
- adequate resources;
- clear, comprehensive and adequate powers; and
- accessibility for those we serve.

We feel that we have been able to accomplish an incredible amount at the Office of the Children's Advocate on very limited resources. However, if the OCA was properly resourced and mandated, we could do so much more for the children, youth and families we serve.

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<sup>3</sup> (UNICEF/Innocenti Research Centre, (2001) *Independent Institutions Protecting Children's Rights*, Florence, Italy.)



**An Overview of the Activities  
and Initiatives Undertaken  
by the Office of the  
Children's Advocate  
in 2001-2002**

## Adoption

### Highlights of the Children's Advocate's Presentation to The Review Panel on Common-Law Relationships in Manitoba

In June 2001, the Manitoba Government commissioned The Review Panel on Common-Law Relationships in Manitoba. The Chairs of the Review Panel were The Honorable A.C. Hamilton and Jennifer Cooper, Q.C. The purpose of the Review Panel was to provide government with advice 'on a series of issues respecting persons in common-law relationships.' At the time of the review, the practice in Manitoba allowed gay or lesbian individuals to adopt children as individual applicants, but did not afford this opportunity to gay or lesbian couples.

The Review Panel Co-Chairs invited the Children's Advocate to make a presentation. The Children's Advocate's presentation which took place on August 31, 2001, was restricted to *The Adoption Act*. It stated, in part, that:

*'The needs and best interests of the child should be the primary consideration in adoption. Agencies, both private and public, should assess each applicant from the perspective of what would be in the child's best interests. All people should have an equal opportunity to apply to be adoptive parents and to have their qualifications as adoptive parents considered. All applicants should be assessed fairly on their abilities to successfully parent a child needing family membership. Consideration should be given to personality and maturity factors as well as the abilities of the applicant to meet specific needs of the child.'*

*'Gay and lesbian applicants should be assessed in the same manner as any other adoptive applicant. It should be recognized that the sexual orientation of the applicant(s) and their capacity to nurture a child are separate issues.'*

**The Children's Advocate recommended to the Panel that:**

*'Legislation should ensure that the best interests of the child are of paramount consideration in any decisions respecting the adoption of children. Legislation should ensure meaningful child and youth participation in any decisions affecting them. This would include a child's right to participate in the matching process and consent where applicable and appropriate to adoption.'*

*'Legislative changes are required to ensure that all applicants are treated with equity and fairness in consideration of their application for adoption.'*

## **The Children's Advocate Information Material Wins International Award**

The International Forum for Child Welfare (IFCW) awarded the Office of the Children's Advocate top honours for our information material. The majority of the items were created exclusively for distribution to children and youth in care.

The IFCW is an international non-government organization dedicated to fostering cooperation and information exchange in the field of child welfare. It was established in 1989 to advance the well being of children globally and holds consultative status with the United Nations. The IFCW, through its member organization, is involved with millions of children across the world.

The Media Award was announced at WorldForum 2001 in Limerick, Ireland on August 30, 2001. The forum attracted leading professionals, practitioners, policy makers, academics and managers to share organizational and program experience, to exchange cross cultural ideas, and to explore new approaches to current issues surrounding the welfare of children.

The entries were judged upon:

- depiction of children that was consistent with their rights;
- messaging that was clear and achieved its objectives;
- messaging that was delivered in an innovative way;
- their ability to make a substantial contribution to raising the standards of materials promoting children's rights and needs; and
- demonstrated innovation relative to budget.

In commenting on the award bestowed upon The Children's Advocate, Peter Dudding, the Executive Director of the Child Welfare League of Canada stated: 'To achieve this honor on an international stage is a great accomplishment. We all take great pride in your success.'

## **The Children's Advocate Web Site Was Launched on November 20, 2001**

[www.childrensadvocate.mb.ca](http://www.childrensadvocate.mb.ca)

We developed our web site as a public resource for children, youth and families seeking information about the Office of the Children's Advocate and the services we provide. We only collect information on web site visitors that are essential for the operation and security of the web site. The only statistical information collected is the number of people who visit our web site and which pages they view.

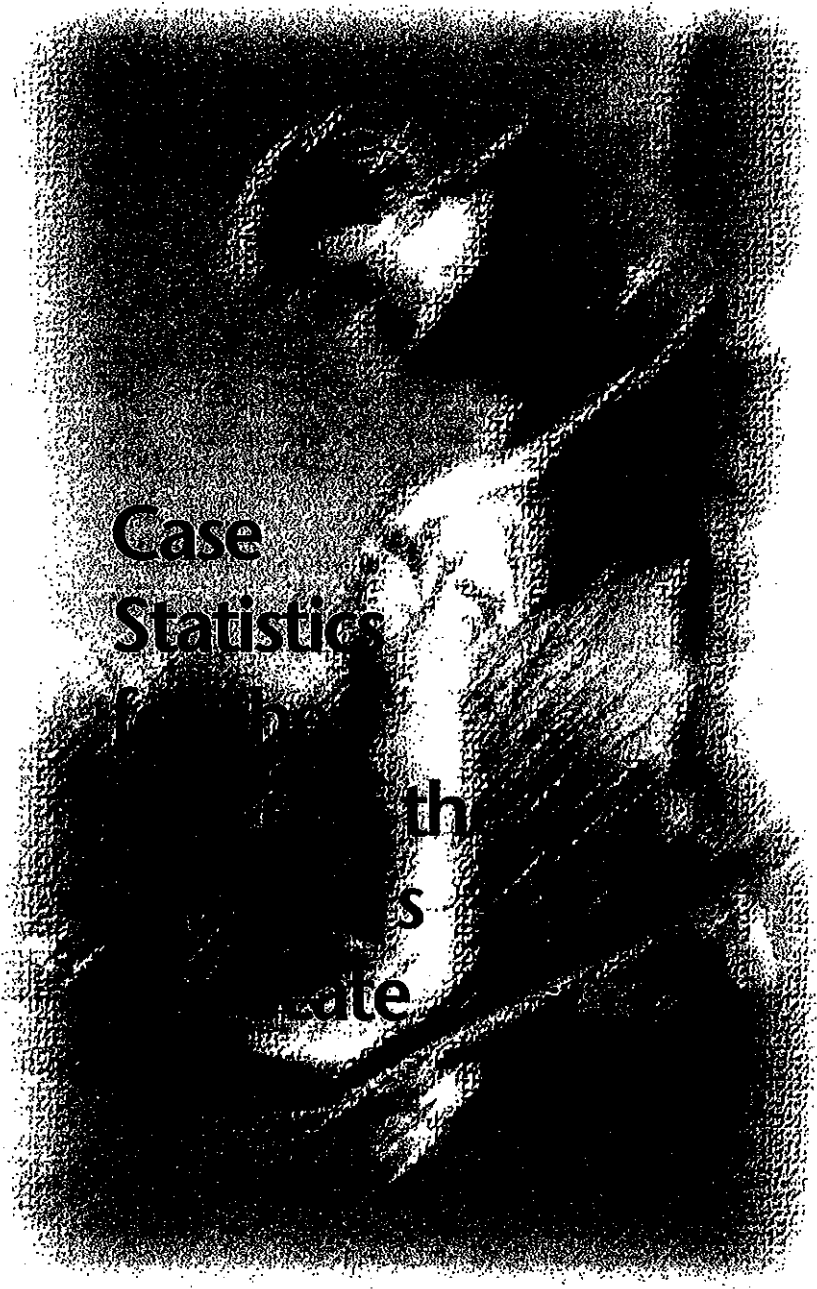


## **The Right Way: "I am a voice in this world."**

The Right Way program was originally introduced as a pilot program in March 2001. Save the Children Canada, in conjunction with Human Resources Development Canada (HRDC) and the OCA, was able to continue The Right Way project into 2002. The program provides interactive workshops about rights for youth in schools (elementary to high school), residential care facilities and youth correctional facilities. The workshops are lead by a youth facilitator and give young people an opportunity to practice the skills they need to advocate for themselves in a responsible way.

The Right Way Program has had a significant impact on the way young participants view their rights and responsibilities. When asked to share what they believe they had learned after attending a Right Way workshop, comments have included:

- "That what you say does matter. You need to say things to help people. You need to contribute."
- "I think children have rights. I think we have the right to grow up without getting abused. I think we have the right to do what we set our minds to."
- "I learned that I have the right to feel safe in the community because there are people to help."
- "Everyone has equal rights to be respected, an education, health, shelter and to be alive. All people have a voice."
- "Treat others with respect"
- "I have the right to my own religion. I can be different."
- "Listen to all people. Respect elders."
- "Fighting is not the solution. We have a right to make our own choices or we can get help."
- "The right to tell your parent or guardian that your boyfriend is hitting you."
- "Now I am not afraid to speak out."



**Case  
Statistics**

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## Case Statistics

	<u>1999-2000</u>	<u>2000-2001</u>	<u>2001-2002</u>
Cases Open from Previous Year	89	125	174
Total Requests for Services	920	1,133	1,426
Files Closed	854	1,084	1,326
Files Remaining Open	155	174	100

### Breakdown of Total Requests for Service in Fiscal Year 2001 - 2002

Level 1 Requests*	N/A	N/A	577
Level 2 ISAA Cases	483	591	514
Level 3 AI Cases	<u>437</u>	<u>542</u>	<u>335</u>
<b>Total Requests for Service</b>	<b>920</b>	<b>1,133</b>	<b>1,426</b>

#### \*Information on Level 1 Requests

The increasing number of requests for services combined with limited staffing levels made it necessary to restructure the way in which service requests were handled within the Office of the Children's Advocate.

In April 2001, Level 1 Requests were introduced as a means to alleviate the escalating pressure being put upon the Office's four advocates as a result of a 80% increase in annual requests for services since the Children's Advocate became an Independent Officer of the Manitoba Legislative Assembly.

At Level 1, OCA staff members immediately respond to all requests and determine those requests that require direct OCA services and those that fall outside the mandate of the Children's Advocate.

At Level 1, OCA staff provide general information regarding Manitoba's child caring system, grievance and appeal procedures, CFS, daycare, children's special needs services, access programs, maintenance enforcement programs, support programs for children whose parents are affected by divorce, the youth criminal court system, legal representation for children and youth, custody and access issues affecting children in private family matters, educational issues and a variety of other subjects.

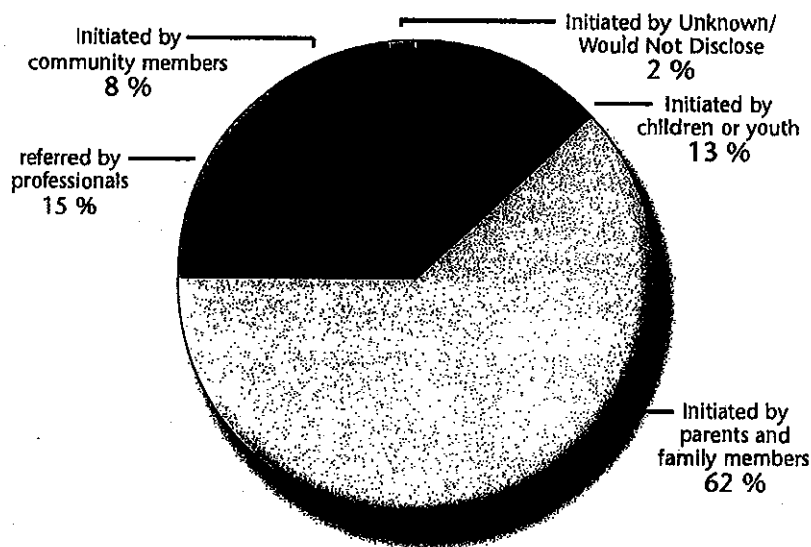
OCA staff refer matters clearly outside the Children's Advocate's mandate to appropriate child care systems, alternative oversight regulatory bodies, agencies or government departments.

Requests for assistance on matters that do not pertain specifically to children and youth or the child caring system are not logged or included in the statistics contained in this Annual Report.

### Information on Cases that fall Within the Mandate of the Children's Advocate

Cases that require additional advocacy assistance are moved to the second level where an Advocacy Assessment Officer provides brief services and Information and Self Advocacy Assistance (ISAA) or to a third level where an Advocate provides Advocacy Intervention (AI). Generally, Level 3 - AI cases are the most complex service requests.

849 cases were opened under the ISAA and AI categories. Information is tracked and follows:



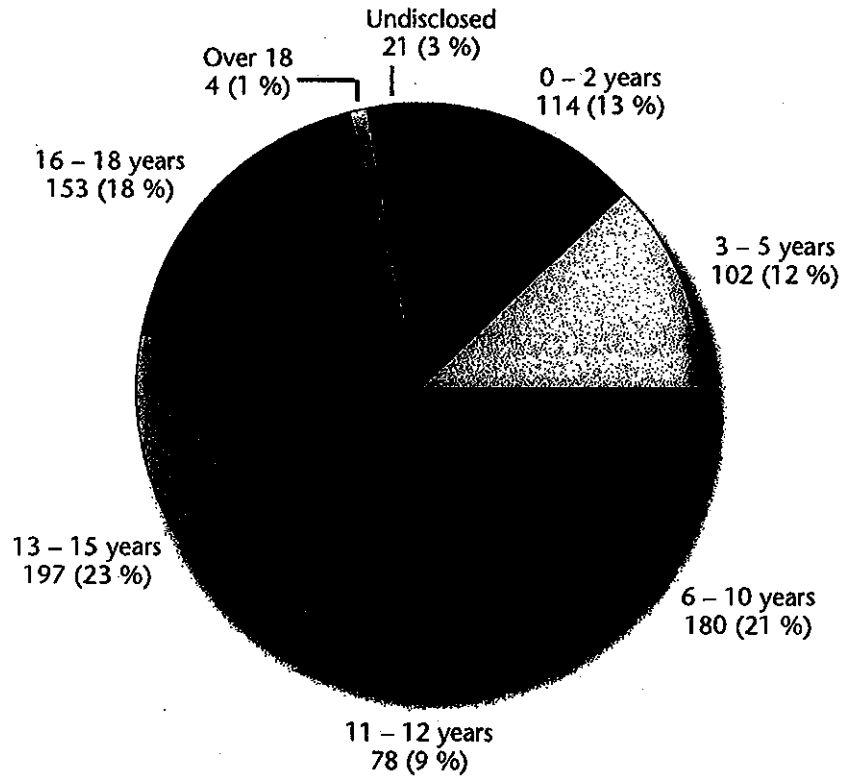
64% percent were cases where people had no previous involvement with the OCA.

79% percent or 669 of the 849 cases the OCA opened had active files with a CFS agency or regional office.

68% per cent of the children and youth with active CFS files had legal status with an agency or regional office. (21 % percent were permanent wards, 21 % were in care under apprehension, 15 % were temporary wards, and 11 % were in care under a Voluntary Placement Agreement.)

We served relatively equal numbers of male and female children and youths.

## Age Groups of Children We Served



## Where are these children living?

Fifty-five (55%) percent of the children and youth we served were reported to live in the community:

Parent/Guardian	338	72%	
Unknown	62	13%	
Relatives/Friends	33	7%	
On Own	23	5%	
Adoptive Home	9	2%	
Would Not Disclose	<u>3</u>	<u>1%</u>	
<b>Sub-total:</b>	<b>468</b>	<b>100%</b>	<b>55%</b>

Forty-two (42%) percent of the children and youth the OCA served were reported to be living in a care arrangement approved, supervised and funded by the CFS system:

Non-Relative Foster Home	224	63	
Relative Foster Home	41	12	
Group Home	38	11	
Residential Care (Secure)	21	6	
Receiving Resource	14	4	
Hotel/Motel	11	3	
Place of Safety	<u>5</u>	<u>1</u>	
<b>Sub-total:</b>	<b>354</b>	<b>100%</b>	<b>42%</b>

Three (3%) percent of the children and youth we served, lived in other child/youth facilities:

Youth Corrections	19	70	
Hospital	4	15	
Mental Health Facility	<u>4</u>	<u>15</u>	
<b>Sub-total:</b>	<b>27</b>	<b>100%</b>	<b>3%</b>

## Case themes and Top Concerns

Cases may have more than one single issue. The OCA identified 1,256 concerns in its 849 new cases. These concerns are grouped into the categories represented below.


Concern	Number of Concerns	Percentage
Case Planning	379	30
Quality of Care	199	16
Accessibility to Services	172	14
Lack of Responsiveness	108	9
Rights	107	8
Child Maltreatment	104	8
Special Needs	37	3
Accountability	32	3
Transitional Planning	26	2
Adoption	17	1
Other (Misc.)	75	6
<b>Total:</b>	<b>1,256</b>	<b>100%</b>

## Total Concerns by Age:

	0-2	3-5	6-10	11-12	13-15	16-18	18+	Other	Total	%
Accessibility	27	23	33	13	35	26	0	15	172	14
Accountability	2	4	10	4	6	3	0	3	32	3
Adoption	4	6	1	3	0	3	0	0	17	1
Case Planning	65	52	72	33	77	64	0	19	379	30
Child Maltreatment	19	22	30	13	13	6	0	1	104	8
Quality of Care	20	15	62	15	59	27	0	1	199	16
Responsiveness	15	14	29	9	20	14	0	7	108	9
Rights	6	3	13	7	37	32	3	6	107	8
Special Needs	2	6	20	2	6	1	0	0	37	3
Transitional Planning	0	0	0	0	0	23	0	0	26	2
Other (Misc.)	<u>12</u>	<u>9</u>	<u>13</u>	<u>10</u>	<u>17</u>	<u>13</u>	<u>0</u>	<u>1</u>	<u>75</u>	<u>6</u>
<b>Total:</b>	<b>172</b>	<b>154</b>	<b>283</b>	<b>109</b>	<b>270</b>	<b>212</b>	<b>3</b>	<b>53</b>	<b>1256</b>	<b>100%</b>

The OCA recognizes that some services will be delivered in communities that are rich in external resources. Others will be delivered in communities devastated by the effects of poverty and isolation. The new system in partnership with both levels of government (federal and provincial) will have to address the inequity of services across jurisdictions and work with the various communities to find solutions. In the new system, regardless of the governance structure, there must be equity of service in order to improve outcomes for children and youth. The solution does not lay alone with the individual CFS agencies but is partly to be found in the adequate resourcing of and support to the newly devolved CFS system.





## Hear Our Case Stories that Give Meaning to the Experiences of Young Manitobans

This section of the Annual Report includes summaries of cases that help provide perspective on some of the issues and challenges on which children, youth and their families sought the help of the Children's Advocate. Our hope is that this information will be beneficial to those charged with the responsibility of creating the new system.

To protect the identities and privacy of all those involved in the Children's Advocate's cases, a minimal amount of personal information has been included in the case examples profiled in this section.

## Case Planning

Thirty percent of the concerns raised with the OCA involved case planning. It was the subject most often raised by and about children and youth of all ages.

What does case planning mean? There are three separate but interconnected facets of case planning that encompass an overall case plan.<sup>4</sup>

- Safety or protection planning, where the immediate protection needs of a child are assessed and the immediate protection of the child addressed.
- Family planning, which addresses what can or will be done to strengthen the family capacity to care for a child.
- A child-specific plan that is child focussed and addresses what will be done to meet the specific needs of that child. This planning can include transitional planning and/or permanency planning.

Planning for a child, youth or family is a comprehensive process led by a case manager and involving the child, youth, family and community members where information is gathered, exchanged and evaluated or assessed. "The purpose of which is to identify desired outcomes and goals and deciding what should be done, and by whom, how, and when."<sup>5</sup>

As in previous years, the OCA found that case planning was largely absent or incomplete in the cases we reviewed. Due to a variety of reasons typical to the child welfare field, (high caseloads, a lack of resources, high worker turnover, etc.) formal planning for the future of children removed from their family homes for their own protection often appears to end after the agency intervenes and the children come into care.

We often heard from youths that they were unaware of their case plans. Families stated that the case plan was continually changing. Some case plans were developed by agency staff, based on agency policy and/or the availability of limited resources. Decisions about case plans were made without adequate input from the children involved, their families, foster families and communities. Without effective and consistent planning, serious consequences can and do occur.

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<sup>4</sup> Government of Manitoba (2001) Child Protection and Support Services. Case Management Standards-Draft July 2001.

<sup>5</sup> Department of Family Services and Housing. Competency Based Training. Case Work Process and Case Planning in Child Protection Services. A Training Curriculum.

**CASE EXAMPLE:**



**Case Planning Concerns:  
A Lack of Effective Case Planning.**

"We all take part in the play. We have a Crown prosecutor, who speaks about protecting the public; we have defense counsel, who speaks about what is in the offender's best interests, presenting his side of the story, asking for leniency; we have doctors, psychiatrists, who tell us psychological aspects of the offender; we have social workers. We're all part of the play. But unfortunately, the play has no ending, no realistic ending."

This quote is from a provincial court judge considering the disposition of a case of a young person who was a permanent ward of a CFS agency. The OCA was contacted, as the guardian CFS agency could not adequately plan for the care of this young person.

The young person had experienced a traumatic life, born into a dysfunctional family characterized by alcohol abuse, domestic violence and child maltreatment. Taken into care of a CFS agency at a very young age, he had since lived in a number of foster homes and emergency care facilities. Attempts were made to reunify him with his family but all failed as his family could not resolve the issues that resulted in CFS involvement. The young person's life quickly spiraled out of control.

Therapy had been provided but those who now worked with the young person were at a loss as to what to do and where to place the young person. The young person's needs were so great that he required a Level 5 resource, the highest level of care the CFS system can provide to troubled children. The agency was deemed not to have created an adequate care plan and an assessment was ordered to assist the courts in determining a disposition. Upon the completion of the assessment the agency could not secure an appropriate placement beyond an emergency placement which would not have met the young person's needs.

The agency suggested a Level 3 residential care facility. The OCA opposed the placement, as the staff to child ratio would not be sufficient to care for the young person. The OCA, prior to court, met with the young person who stated he wanted to live in a family setting where there would be no changes in staffing as he had experienced in past residential settings. He clearly recognized his needs but felt that his best chance was in a small setting with consistent staff with whom he could connect.

The judge, clearly frustrated with the system stated,

'There is a common thread in most of the young people who appear in court'. ... 'The lack of love by parents, the lack of support by parents, the abuse that they suffer commonly' ... 'As long as they are in the parental home ... where alcohol and drugs are prevalent, ... these children don't have a chance to succeed' ... 'It's no wonder that (young person) ... is here. It's no wonder he's angry. He and others have been apprehended by Child and Family Services and they become a tennis ball. They go from foster home to another foster home, sometimes being abused in foster homes. They're placed in emergency placements. I don't have the answer.'

'This is intergenerational. This goes on from generation to generation, and we as a society are bearing the costs, and we also bear the responsibility.'

'I have heard the evidence ... concerning the lack of resources that plague CFS. I've heard the evidence with respect to the great number of children that are in care of CFS, and the lack of staff. I've heard the evidence about CFS just being able to maintain its head above water dealing with the number of people, and they go from one crisis to another crisis, to another crisis. But what's the purpose of the whole system if we continue to throw children out on the street. I don't understand and I don't want to participate in that'.

The courts then required the agency to find an appropriate care facility to meet the young person's needs and, if necessary, to involve the OCA in that search. The OCA did find an appropriate Level 5 treatment foster home and provided this information to the CFS agency. With the court's approval, the agency placed the child in this home.

This young person continues to struggle, as he likely will for years to come, however the treatment home remains a consistent and appropriate resource assisting the agency in planning for this young person's future.

## Quality of Care Concerns

Sixteen percent of the issues identified in this year's cases involved quality of care, making it the second largest area of concern for those seeking the Children's Advocate's assistance. All these cases involved children and youth who were living in foster homes, shelters, group homes or other forms of residential care that was arranged, funded or supervised by a CFS agency.

Quality of care was an especially significant issue involving children aged 6 to 10 and youth between 13 and 15 years of age. Access to siblings, parents or family members was a primary concern with the children. Youth were largely concerned about the manner in which they were treated while in care and the availability of appropriate resources to meet their needs. Overall issues involved areas like health care, educational programming, clothing food, shelter, availability of recreational opportunities, availability of treatment, the use of intrusive measures, access to family, siblings and peers, the number of placement moves and availability of appropriate care resources.

### CASE EXAMPLE:



### Quality of Care "We are awaiting placement".

A rural family who had cared for a very high needs pre-adolescent youth for a number of years contacted the OCA. The young person's extensive needs, combined with a lack of support resources in the community, made it necessary for the young person to be moved from the family's home to an urban environment so the agency involved could apply to place the child in a structured residential care setting.

The previous caregivers continued their commitment to the young person by maintaining contact. They became increasingly concerned about the lack of available and appropriate treatment placement alternatives. Since leaving their care, the young person had been living in emergency placements that the previous caregivers felt had caused the youth's behavior to deteriorate. The young person had been placed at shelters, a group home, and finally, in a hotel with untrained staff, who inadvertently fueled the young person's aggressive and anti-social behaviors. Nothing positive seemed to be taking place.

At the request of the previous caregivers, the OCA attended a planning meeting with the guardian agency. We advocated that the youth should be removed from the hotel and placed in a structured setting within a finite period of time. The agency reported that the young person was prioritized for a group home bed, however, the bed was unavailable and the residential care resource would not commit to a placement until a psychological assessment had been completed.

While the agency had made arrangements for the required assessment, it appeared that the young person was still waiting for a significant period of time for a placement to open up, creating a situation that was frustrating for the CFS worker, the young person and the previous caregivers. In the interim, the agency agreed with the recommendation to remove the child from the hotel and placed the youth in a treatment foster home for a 30-day period. This was to be a temporary solution, as that particular bed space was already committed to another child, but was infinitely better than a hotel. While in this care facility, the operators became aware of another treatment foster home with a bed space available. The agency was notified of this available resource. The agency then arranged for the child to be moved, but this time to a long-term treatment foster home. The young person is reported to be doing well and maintaining contact with the previous caregivers who had come to the Children's Advocate seeking assistance. This case example shows that when all parties work together, children's needs are met.

**CASE EXAMPLE:**



**Regarding the Accessibility of Services**  
**"You said you would help."**

Fourteen percent of the concerns raised to the OCA this year involved accessibility of services and or programs that individuals and families should have received, or been entitled to receive, from the CFS system and or external community child care systems. Many cases involved instances where there was a lack of information about programs and services. Others involved eligibility issues or instances when services had been refused to eligible children, youth and families. Accessibility of services was a primary issue in cases affecting children up to five years old. In these cases, access to services was often complicated by the lack of available services in the community.

A single parent of children who had been diagnosed as suffering the effects of FAS/FAE contacted the OCA, concerned that support services provided by a CFS agency were being discontinued.

Several years prior to OCA involvement, the children had been in care for considerable periods of time during their very early years. At that time the parents had struggled with their own addictions until one parent was able to regain control and maintain sobriety. Eventually, the children were returned to this parent and extensive agency support services were provided to the family.

Over the years the support services provided to the family were reduced to weekly respite services and a daycare subsidy. The parent was accessing respite services from the agency in order to attend community support programs that assisted the parent to gain and maintain the necessary parenting skills.

The CFS worker notified the parent that the respite hours and daycare subsidy would no longer be provided due to budgetary restraints. The parent was requested to independently locate alternate community programming within a set time period, as the agency would be closing the file. The parent was concerned that parenting the children would prove to be difficult given their diagnosis and lack of familial support.

The parent attempted to locate alternate programs but could not find long term or consistent supports available in the community. The parent was concerned that a revolving door of unknown and untested supports would be futile given the children's needs. The OCA was concerned that the sudden discontinuation of supports would be disruptive to the children and would create unnecessary crisis within the family, leading to the possibility that protection concerns would present themselves once again. The agency's position was that the parent was now stable and there was no need for CFS involvement. They believed that the parent could find the same services in a non-mandated community agency. The OCA concurred with the parent's assessment that community resources were limited.

The OCA requested that the CFS agency develop a concrete plan with the parent and assist in locating the needed community supports prior to discontinuing their services. The parent also contacted the Department of Family Services and Housing, where officials were open to assisting the agency in locating alternative supports. The agency agreed to continue their support to the family until appropriate, alternate community support could be located and placed in the home. The CFS agency also agreed to maintain their support in the event that the appropriate community programs did not materialize.

At the time of writing this report, the parent is in receipt of community support services from a non-mandated agency. The children remain at home and attend daycare. The agency was able to close their file on the family, but now in a manner that did not disrupt the children's lives.

**CASE EXAMPLE:**



**Involving the Responsiveness to Requests for Services**

**"Your choice is to take the kids or lose them to the system"**

People, who were eligible for services, often contacted the Children's Advocate about delays and failures to respond by agencies, as well as the manner in which agencies had responded to their requests.

A young adult contacted the OCA as a family member's small children had recently been removed by a CFS agency. This individual was concerned about the lack of services provided by the agency following apprehension.

According to the individual, the removal of the children was justified as it ensured the children's ongoing safety. Upon apprehension, the children were placed in a hotel. The individual was contacted and requested to take the children. At that time the individual was struggling on a limited income while attending day programming to enhance future employment opportunities.

The children were placed with the young adult, but the agency provided minimal financial support. The young adult was concerned about the additional financial strain as well as meeting all of the children's needs on a limited income. In response to this concern, an agency staff person reportedly said to the young caregiver, "charge everything on your credit card and we will reimburse you". The young caregiver continued to provide care on this basis and under the assumption that her home would eventually be licensed as a relative foster home. The caregiver planned to gain guardianship of the children upon completing her programming.

Within a few months of placing the children, the agency determined that the biological parent could no longer parent. The agency informed the caregiver that they would be seeking a permanent order and, if successful, the children would be placed for adoption in a non-relative home. The agency suggested that the caregiver could take guardianship of the children as an alternative to avoid the permanent order. Once again, the caregiver expressed concern about the financial implications of such a decision. According to the caregiver, agency staff suggested that the caregiver either take guardianship or the children would be placed for adoption. The caregiver believed that agency staff had provided further assurances that continued financial support would be provided.



Guardianship was granted to the young caregiver, after which the financial support ended. The caregiver, confused as to the lack of financial support, contacted the agency worker who informed her that they 'did not financially support people who were the legal guardians of children, only those who fostered children.'

The caregiver was left with no financial support and eventually contacted the OCA. The OCA contacted the agency. They eventually agreed to continue with minimal financial support as required. However, due to the overwhelming emotional and financial stress, the caregiver felt forced to withdraw from her day programming.

The OCA continued to work with the caregiver well after the agency had discontinued service. Distrustful of the child and family services system, the caregiver sought additional community supports from non-mandated organizations in the community. With the assistance of the OCA and other community organizations, the complainant was able to secure employment and stabilize the family's financial situation. The children remain with the caregiver and are thriving. The caregiver reports to be still paying off the credit card debt incurred.

**CASE EXAMPLE:**



**Child Maltreatment**  
**"It's a custody/access matter"**

The majority of the child maltreatment cases brought to the attention of the OCA were ones where children or youth lived with a custodial parent and had access to their non-custodial parent. In these instances, one parent would often claim to the OCA that their child was being subjected to abuse or neglect while in the care of the other parent. Prior to contacting the OCA, most claimed to have already been in contact with a CFS agency, but felt that the agency had not acted or investigated the allegations as the agency had determined that the issues were related to the custody battle between the parents. When the OCA contacts the agency involved, these cases are typically referred to by the agencies as 'custody/access' matters that are better dealt with through the family courts.

The OCA was contacted about a young person who had lived with one parent for several years and had sporadic contact with the non-custodial parent. While visiting the non-custodial parent,

the young person was apprehended by the local CFS agency. The young person had alleged to that agency that the custodial parent had been abusive on several occasions over several years.

The OCA met with this young person who advised us that he had complained about these incidents to the CFS agency that had jurisdiction in their community. The youth claimed his complaints had gone unanswered. Upon coming to the non-custodial parent's home he had contacted the local CFS agency and told them of the mistreatment. He stated that the second agency took him 'seriously', apprehended him and placed him in a neutral setting. He explained to the OCA that he was well aware of his rights and wished to seek legal counsel to speak on his behalf in the upcoming legal proceedings. The second CFS agency arranged for legal counsel.

As the young person's needs were being addressed by the agency required to protect him, there was no further need for the OCA to remain involved. We acknowledge the work conducted by the second agency, but are saddened that the youth had to endure several difficult years before someone in the CFS system would listen.

## **The Rights of Children and Youths**

Rights were a primary issue for adolescents. They were concerned about their right to participate in case planning. They strongly felt that their views should be considered when decisions were being made about their lives.

At the other end of the spectrum, a CFS supervisor commented to an OCA staff person that "children do not have rights, they have needs and desires."

The statement depicts the attitude that many youth typically face when challenging agency staff. Following a meeting with a youth who felt that the views expressed by the youth were neither considered or heard by CFS authorities, the youth stated to the OCA that the agency could now say, 'Check off - talked to kid'.

Youth have the right to be involved in decisions made about their lives and to have input into these decisions. The right to participate in the decision making process is not simply being asked what they think and then having their views ignored or disregarded. It includes meaningful and full participation where youth are provided accurate information that will allow them to make decisions and where due consideration is given to their views.

**CASE EXAMPLE:**



**A Case Example Involving Rights  
of Children and Youths**

**"Check off-Talked to Kid"**

The OCA became involved with a youth who was concerned about an agency's plan to move him from his long-term foster home to a new foster home where he would be reunited with his siblings in a culturally compatible home. Upon learning of the plan, he advised the agency that he did not wish to leave his current foster home or the community in which he had made deep connections. This was the place with which he identified and where he felt he had achieved success. Ironically, the success of the current placement had created a situation where the agency, upon the recommendation of the Department, was attempting to reduce the foster care rate. All the issues had become so entwined that the young person's voice was lost.

Following contact with the OCA, the agency and the Department began a long process to determine what was in the young man's best interests. Should he remain in his foster home? Was he being manipulated by his adult caregivers? How and when should he be transitioned?

The OCA was of the opinion that the disagreement about foster care rates was a separate issue, not one that should be paramount in the planning process. The OCA was of the opinion that the views of this young person should be the most important consideration in creating a plan. The young person advocated strongly for himself, writing letters to those in authority at the agency and department. His position did not waiver - he did not wish to move. The OCA strongly supported this young person's position. Despite his opinion and the recommendation of the OCA, the agency continued their plan to relocate the young man.

Facing a move that he did not wish, he resisted the transition, which was the only means left open to him by those in authority. As a result, the intended foster home decided not to participate in the agency's transition plan. This young person remains in his foster home and community of choice. He continues to achieve success while maintaining contact with his siblings.

## The 2001-2002 Fiscal Year Budget for the Office of the Children's Advocate

Expenditures	\$(000)	FTE
Total Salaries and Employee Benefits	395.7	7
Total Other Expenses	1712	

## The 2001-2002 Fiscal Year Staff List for the Office of the Children's Advocate

Janet Mirwaldt, Children's Advocate

Michael Bear, Deputy Children's Advocate

Terri Hammerback, Children's Advocacy Officer

Thelma Morrisseau, Children's Advocacy Officer

Jill Perron, Advocacy Assessment Officer

Patsy Addis Brown, Office Manager

Vivian Jack, Administrative Secretary

(October 1999 to October 2001)

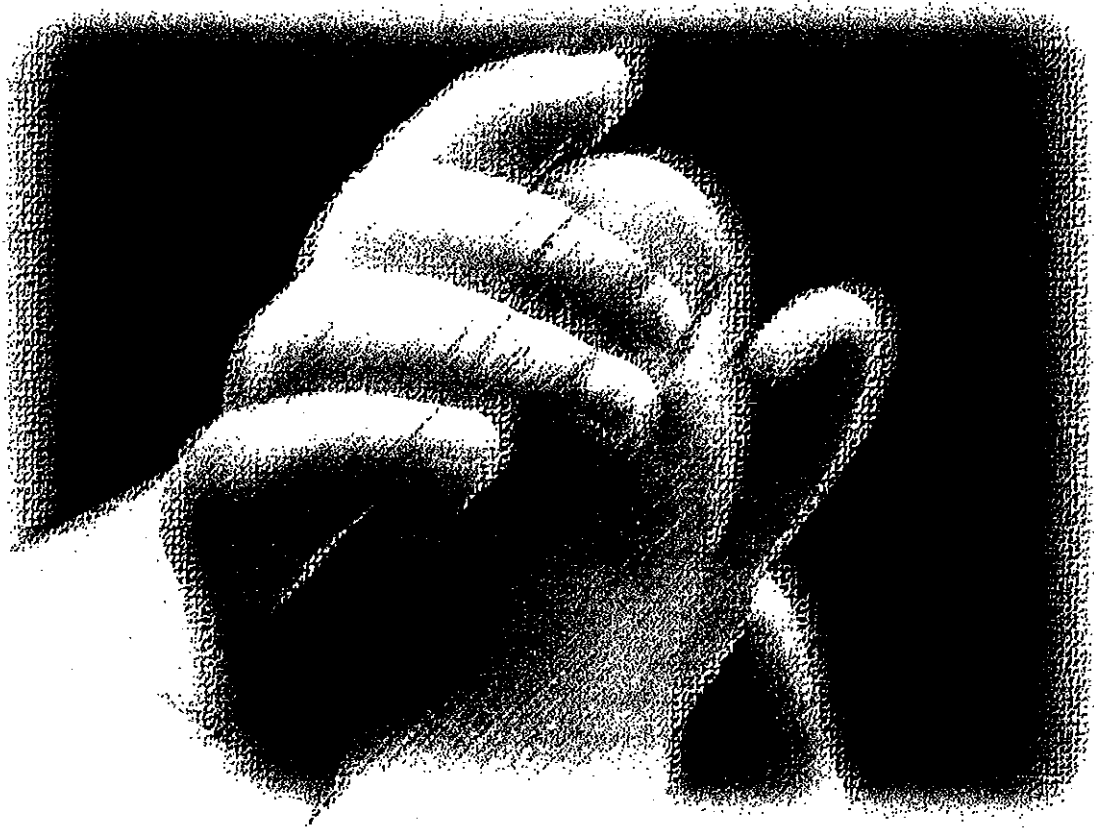
Debra Swampy, Administrative Secretary

Una Truscott, Aboriginal Public Administration Program Intern (April 2001 – August 2001)

Kimberly Wiens, Social Work Student (September 2001 to March 31, 2002)

Melissa Busch, Project Coordinator, The Right Way Program (October 2001 to Jan. 2002)

Marie Christian, Youth Coordinator, The Right Way Program



**We all have a hand in it.**