



Legislative Assembly  
of Ontario  
Second Session, 38<sup>th</sup> Parliament

Assemblée législative  
de l'Ontario  
Deuxième session, 38<sup>e</sup> législature

## **Official Report of Debates (Hansard)**

**Wednesday 25 April 2007**

## **Journal des débats (Hansard)**

**Mercredi 25 avril 2007**

**Standing committee on  
justice policy**

Provincial Advocate for  
Children and Youth Act, 2007

**Comité permanent  
de la justice**

Loi de 2007 sur l'intervenant  
provincial en faveur des enfants  
et des jeunes

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Telephone 416-325-7400; fax 416-325-7430  
Published by the Legislative Assembly of Ontario



Service du Journal des débats et d'interprétation  
Salle 500, aile ouest, Édifice du Parlement  
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Téléphone, 416-325-7400; télécopieur, 416-325-7430  
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON  
JUSTICE POLICY**

**COMITÉ PERMANENT  
DE LA JUSTICE**

Wednesday 25 April 2007

Mercredi 25 avril 2007

*The committee met at 0905 in room 228.*

**The Vice-Chair (Mrs. Maria Van Bommel):** Good morning, everyone. I want to welcome everyone to the standing committee on justice policy.

The order of business today is Bill 165, An Act to establish and provide for the office of the Provincial Advocate for Children and Youth. We will be holding public hearings today and tomorrow here in Toronto, and we've been able to accommodate all those who have requested to appear before this standing committee.

The committee will be meeting this afternoon in room 151 rather than in this particular room. Clause-by-clause will be held on Thursday, May 3, 2007.

**SUBCOMMITTEE REPORT**

**The Vice-Chair:** Our first order of business is the motion for adoption of the subcommittee report. I would ask for someone to first read the report into the record and move its adoption. Mr. Balkissoon, would you please do that?

**Mr. Bas Balkissoon (Scarborough–Rouge River):** Your subcommittee considered, on Wednesday, April 11, Thursday, April 12, and Friday, April 20, 2007, the method of proceeding on Bill 165, An Act to establish and provide for the office of the Provincial Advocate for Children and Youth, and recommends the following:

(1) That the committee meet for the purpose of public hearings on Bill 165 in Toronto on April 25 and 26, 2007.

(2) That the deadline for those who wish to make an oral presentation on Bill 165 be 12 noon on Monday, April 23, 2007.

(3) That, by the deadline, if there are more witnesses wishing to appear than time available, the committee will request the approval of the House leaders to sit in the afternoons of April 25 and 26 in order to accommodate all those who wish to appear.

(4) That organizations and individuals appearing before the committee be given 15 minutes each in which to make their presentation.

(5) That an advertisement be placed for one day in all Ontario English and French daily newspapers and also be placed on the Ont.Parl channel, the Legislative Assembly website and in a press release.

(6) That the ad specify that opportunities for videoconferencing and teleconferencing may be provided to accommodate witnesses unable to appear in each location.

(7) That the committee meet for clause-by-clause consideration of Bill 165 on Thursday, May 3, 2007.

(8) That amendments be received by the clerk by 5 p.m. on Tuesday, May 1, 2007.

(9) That the deadline for written submissions be the end of public hearings.

(10) That the research officer provide the committee with a background of how other provinces deal with child and youth advocacy.

(11) That the research officer provide the committee with a summary of witness presentations prior to clause-by-clause consideration of the bill.

(12) That options for videoconferencing or teleconferencing be made available to witnesses where reasonable.

(13) That requests for reimbursement of reasonable travel expenses for witnesses to attend hearings be subject to approval by the Chair.

(14) That the clerk of the committee, in consultation with the Chair, is authorized immediately to commence making any preliminary arrangements necessary to facilitate the committee's proceedings.

I move the report, Madam Chair.

**The Vice-Chair:** Is there any debate of the report? Seeing none, I will put the question. All those in favour? Opposed? The motion carries.

Are there any further reports to bring forward to the committee? Seeing none, I want to thank you very much for that, Mr. Balkissoon.

**PROVINCIAL ADVOCATE FOR  
CHILDREN AND YOUTH ACT, 2007**

**LOI DE 2007 SUR L'INTERVENANT  
PROVINCIAL EN FAVEUR DES ENFANTS  
ET DES JEUNES**

Consideration of Bill 165, An Act to establish and provide for the office of the Provincial Advocate for Children and Youth / Projet de loi 165, Loi visant à créer la charge d'intervenant provincial en faveur des enfants et des jeunes et à y pourvoir.

MINISTRY OF CHILDREN  
AND YOUTH SERVICES

**The Vice-Chair:** Our first witness is Judy Finlay for the Office of Child and Family Service Advocacy. Please come forward. You have 15 minutes for your presentation. You may use the entire 15 minutes, or less of that time, which would allow members of the committee to ask questions or make comments. Before you start, if you will put your name into the record for us, please.

**Ms. Judy Finlay:** Judy Finlay. First of all, I'd like to thank you for the opportunity to speak to you today and for allowing me to start the consultation process. This is an important moment for children in Ontario's history, and I'm thrilled that the bill for an independent child and youth advocate has received the level of support that it has from all parties. It's a crucial safeguard for vulnerable children and it's quite wonderful that everyone is onside to make it happen. As you know, it's been a long-standing dream of mine.

Secondly, I want to commend you all, and particularly the clerk, for making this process so amenable to youth voice. You have offered youth not just voice but meaningful participation in this consultation process. This rarely happens to this degree. I hope that their words and opinions will influence your decisions about this bill. This action on your part of hearing their voice and putting it into action is really the true meaning of citizenship, and our children deserve nothing less.

0910

Finally, as you know, I've been the child advocate for 16 years and have participated in the development of child advocacy across the country. There are now nine child advocates across the country. Ontario had the first child advocacy office in Canada. You may not be aware, but it was also the first child advocacy office in the world.

My presentation today draws on that experience. I can only highlight some of the critical considerations for this bill. I've offered a written submission and I've given many recommendations regarding amendments to the bill to the government, a comprehensive list, and I'm hopeful that these will be brought forward in another forum.

In terms of the most critical considerations, I'd like to speak to investigations versus reviews. I get asked this question often: Why is it that I'm not supporting the concept of investigations? Investigations presuppose neutrality and a lack of bias on the part of the child advocate. The child and youth advocate has an obligation to represent the perspective of young people. They are not impartial. I have done probably 75 reviews in the last five years and we have a standardized methodology that we use. We're administratively fair and no less rigorous than an investigation process, but we are not unbiased. When I go into an institution to talk to young people, I am there on their behalf.

At the end of any review that we do—and the bill needs to reflect this as well—recommendations need to be responded to in the time frame requested by the child

and youth advocate. And the child and youth advocate needs a right to entry without delay or restriction. This also needs to be clearly reflected in the bill. The advocate needs a right to any information that's in the custody or control of a public body, agency, institution or service provider that is required for the child and youth advocate to perform his or her duties. This means case and systemic information. Also, communication with the child and youth advocate needs to be privileged.

The second issue that I would like to raise with you is the issue around aboriginal children and youth. I have travelled the entire province regularly throughout my term as the child advocate, and I have met with and witnessed children and youth and their families in all situations and circumstances. However, aboriginal children in the remote north are without a doubt the most vulnerable children we have in this province. That's due to their geographical remoteness, the historical trauma—which continues—and poverty. There needs to be special representation required. We need to emphasize that aboriginal people are not a special interest group. Aboriginal people are a fundamental part of our history and who we are as Ontarians. The child and youth advocate needs to be dedicated to improving the circumstances of these children and ensuring equitable provision of rights and entitlements.

At the same time, the child and youth advocate needs to promote the unique sense of place, identity, language and community among aboriginal children. I thought long and hard about how this might be reflected in the bill, and it was hard to make the decision without minimizing or neutralizing the importance of aboriginal people, particularly those in the remote north. What I considered as a possibility is that the deputy advocate be a First Nations person with knowledge and experience in the remote north. That is one thing to consider.

The third consideration is that children with complex needs aren't adequately reflected in the bill. I don't know if you are aware, but that was the foundation of the work of the office when it began in the late 1970s. For the most part, when you think of the child and youth advocate you think of children in the care of the state, in custody or child welfare care or residential settings of some sort. But children in family care with very high complex needs or special needs need to be well represented in the bill as well. The role of the advocate in these circumstances is to ensure that service and supports are wrapped around these children and families. Again, this needs to be adequately reflected in the bill.

There were some excluded groups in the bill that need attention. The residential schools, the residential and demonstration schools for the deaf, hard of hearing, blind and learning disabled are not in the articles of the legislation. It is proposed that there be a memorandum of understanding. It is my belief that it needs to be reflected in the bill itself, in the act itself. If there is a memorandum of understanding, there is too much opportunity for that to be withdrawn. These children, again, have special vulnerabilities and need to be well represented through the legislation for the child and youth advocate.

All children and youth who are receiving non-custodial services through the Youth Criminal Justice Act need to be represented by the child and youth advocate. They're presently a client group of ours, and it needs to continue in the new bill.

Court holding cells and transportation to court need to be reflected in the bill as well. We've been very active with young people who have been managed in court holding cells or transported to court. In Toronto, you see those large vans that transport prisoners to and from court and detention facilities. Those large vans were created because of some of the issues that we raised in terms of the care and treatment and safety of young people being transported, so now there are large vans that are divided. That's through our intervention, just to give you an idea of how critical the issue is in terms of those young people and their vulnerability.

Finally, I'd like to speak to you about a select committee for children and youth. Presently, the office has enjoyed accessibility to government officials. We've had a very collaborative approach at all levels of government in terms of making sure that there is a timely response both in terms of case and systemic advocacy. If we have a case that we're very concerned about or if we enter a facility and we're very concerned about that, we have the channels and avenues to be able to speak to government at all levels to make sure that there's proactive intervention. These interventions often lead to policy development. Essentially, we become an early warning signal for the government to ensure that they're addressing the issues before they need to escalate unnecessarily or unduly. I'm sure that at that level there will be the opportunity for the child and youth advocate to continue with that degree of interaction.

However, the child and youth advocate reports to the Legislature through an annual report or special reports. I'm suggesting that at that level there also needs to be the opportunity for meaningful dialogue that's proactive. This is in the interest of children and youth and should be apolitical. So I'm recommending that there be a select committee for children and youth, not dissimilar from this committee, that could meet with the child advocate on a routine basis to hear what the issues are, not just at the time of annual or special reports.

Those are my comments for today. I'd welcome any questions.

**The Chair (Mr. Lorenzo Berardinetti):** Thank you, Ms. Finlay. We have almost eight minutes left, so we'll divide it between the three parties to ask you any questions. We'll start with the Progressive Conservative Party.

**Ms. Lisa MacLeod (Nepean–Carleton):** Thank you, Mr. Chair. It's nice to see you today. And thank you, Judy, for attending today. Everyone here appreciates the work you've done on behalf of our province's most vulnerable kids, and we appreciate the amount of effort you've put into this piece of legislation.

One of the things that I was really intrigued by during your deputation was the idea of a deputy advocate re-

sponsible for aboriginal matters. I would like to hear just a little bit more of your vision on how this would all be fleshed out, and what role and responsibility this deputy advocate would have for our children in aboriginal communities.

**Ms. Finlay:** I guess I was having a great deal of difficulty seeing how the needs of that population of young people in Ontario could be foundational to the act. I think the best way of doing that is by appointing a deputy advocate who would be wholly responsible for responding to the needs and requests of children, particularly those in the remote north. That may very well mean an office in the far north.

**0920**

We travel very frequently. Probably once a week per month, we're in the remote reserves because of the critical issues facing children and families there. We can't attend to the issues as we should.

I believe that it needs to be a fundamental, foundational, component of the office—again, through a deputy advocate who could even be placed in the far north.

In my conversations with First Nations people—perhaps they'll say something different in the hearings—they've said to me that they want the power and authority of the office. They don't want to be separate from the office. They want it in a significant way, and they want a presence in the north, and I believe that that should happen and that should be true, and the best way of doing that is to appoint a deputy advocate and perhaps position that deputy advocate in the north.

**Ms. MacLeod:** Could we get a sense of some of the issues you deal with up north with the aboriginal community, just to highlight why you believe it's such a high need for us?

**Ms. Finlay:** Absolutely. I could go on forever.

The single most significant issue that drew us to the north, at the request of First Nations people, is the high rate of suicide of young people—nine, 10, 11, 12. This is partly because of a lack of resources on-reserve in terms of clinical or social supports. It's also because of the remoteness. It's also because of the poverty and circumstances and the difficulties kids have in even having an understanding of a vision of the rest of their lives. It's partially because of the split between their First Nations culture and non-aboriginal culture and that infiltrating into their communities and the eroding of their culture. So suicide is one of the biggest issues.

Another issue, of course, is just the abject poverty: the lack of water, the lack of provision of washrooms in houses, the lack of adequate provision of education for these young people, the cost of food, the poor quality of housing, the fact that there's a minimum of 18 people living in a two-bedroom house. Kids have to sleep in shifts because they can't all sleep in the two bedrooms at one time, so often adolescents are out at night and sleeping in the early morning hours and therefore don't get to school.

I could go on and on and on.

The circumstances in the far north—unless you’ve witnessed them, they’re really hard to accommodate. Having been there and having taken many people there—once you’ve been there and you understand the circumstances, you’re compelled to address them.

**The Chair:** We’ll move on to the New Democrats. Ms. Horwath.

**Ms. Andrea Horwath (Hamilton East):** I want to welcome you, as well, and say good morning and thank you very much, not only for the work you’ve done but for the wonderful staff that you have doing that great work, and thank you for the way that you’ve taken the time to participate so fully in the process to get to where we are now.

I want you to talk a little bit about, if you can, your idea of a select committee for children and youth and what that might look like and what its role might be.

**Ms. Finlay:** Again, my experience of when the advocacy office works well is when there is proactive and collaborative interaction between the government and the office. My colleagues across the country and I have been having this kind of discussion for many years. BC is just about to put this concept into practice, and I thought it would be a good idea, as well, for Ontario. It offers the opportunity for the child and youth advocate to have less formal interactions with the government, with members of the Legislative Assembly—all parties—to begin to highlight the issues from the perspective of the child and youth advocate so there can be action taken, again, in a proactive way.

If the regular way of interacting with the government or the Legislative Assembly, to which the child and youth advocate will report, is simply through any reports or specialized reports or special reports, then I think the government would be reacting to those reports as opposed to having knowledge and understanding of the issues on a quarterly basis such that they can begin to move the issues forward more proactively and more effectively, I believe, as well.

**Ms. Horwath:** You’ve indicated that BC is about to take on this kind of structure. Are you aware of any other jurisdictions where this kind of thing is up and running?

**Ms. Finlay:** No, not at this point. Most of the offices that report to the Legislature are relatively newer offices and so they’re struggling with their interaction with the government, for sure. We’ve had dialogues. There’s a Canadian Council of Provincial Child and Youth Advocates, and we’ve had dialogues about this for quite some time. Every report becomes controversial. I don’t believe it offers the opportunity for meaningful dialogue with the government when it’s constructed in that kind of way. I’d like to see the ability for the government to hear the advocate on a routine basis and then respond, again proactively, not just simply in a reaction to an annual report.

**Ms. Horwath:** Can I just ask, Mr. Chair: Can we get from research the information from BC as to how their committee is working?

**Ms. Finlay:** It hasn’t started yet.

**Ms. Horwath:** But how they’ve structured it and what it looks like?

**The Chair:** Sure. Thank you, Ms. Horwath.

We’ll move on to the Liberal Party, then, and Ms. Van Bommel.

**Mrs. Maria Van Bommel (Lambton–Kent–Middlesex):** Thank you very much, Ms. Finlay, for the work that you’ve done all these years. It’s very interesting, and there’s a lot of information in your submission to the committee. I’m particularly intrigued by the term “excluded groups.” Can you tell us what “excluded”—it sounds so, you know—

**Ms. Finlay:** I think those groups feel that way too.

**Mrs. Van Bommel:** I’d like to know more about what makes excluded groups.

**Ms. Finlay:** Those were the groups of children that I presently provide advocacy services to that were not included in the bill.

**Mrs. Van Bommel:** Such as?

**Ms. Finlay:** Such as not having, directly in the articles in the bill, opportunity to intervene and offer advocacy services to children in the residential and demonstration schools. We have an advocate who is deaf and part of the deaf culture and part of the deaf community and is on-site in those schools. It’s proposed that there be a memorandum of understanding. I don’t think that’s sufficient. I believe that the work of the advocates in the schools, on-site, because of the vulnerability of those populations, needs to be an article in the bill as opposed to a memorandum of understanding. A memorandum of understanding offers the opportunity at any time for people to withdraw from that understanding. So it needs to be an article in the bill.

The same with—and I think it was simply an oversight. We do a lot of our work with children in the youth justice system, whether that be custody—open custody, secure custody, detention—and that’s caught in the bill through residential programs, but we also work very closely with kids who are on community service orders or probation. They are not reflected in the bill and need to be reflected in the bill.

We also have an understanding with police and corrections that kids who are being transported to court holding cells have, through signage, the opportunity to talk to advocates. We’ve been very active with those young people. There has always been a lot of difficulty in their transportation, and we’ve been able to intervene actively. That needs to be reflected in the bill as well. So those are the groups that we currently serve that are not in the bill, and that’s why I called them “excluded” groups.

**Mrs. Van Bommel:** But your practice is to serve these groups at this stage.

**Ms. Finlay:** Absolutely. Presently we do, yes.

**Mrs. Van Bommel:** And you would continue to do that?

**Ms. Finlay:** Yes, absolutely.

**The Chair:** Thank you, Ms. Finlay, for coming this morning and for your comments.

0930

## LES HORNE

**The Chair:** We'll now move on to our next deputant, Les Horne. They have a total of 15 minutes to make the presentation. Any time that they don't use up during the presentation will be used up through questions from the three parties. Good morning.

**Mr. Les Horne:** Good morning. Do you want me to start?

**The Chair:** Sure.

**Mr. Horne:** Les Horne, and I am history. I say that if you don't take notice of history—you know the old saying—you have to live it. Hegel said, "What experience and history teaches is this: that people and governments never have learned anything from history, or acted on the principles deduced from it." So I hope this is where it all changes.

I'm going to make three major points. The story of child advocacy in the Ontario government began at a time of tremendous enlightenment with a pronounced move to abandon institutional care as the predominant response to children's needs. It was in the Ministry of Correctional Services under the leadership of Allan Grossman in the time of Bill Davis that a place called White Oaks Village was established to care for the needs of children who were committed to the care of the state under section 8 of the Ontario Training Schools Act. Criminal legislation in Canada prevented children under the age of 12 being charged with criminal activity and left the problem of what to do with children who stole, set fires, stole cars or just didn't go to school to the child welfare system. Section 8 was the response. It allowed children who were out of control to be sent away for care and custody. They were sent to Cobourg until 1966. They were dressed in oversized khaki uniforms with heavy army-type boots and, if they were very good, went home for holidays like Christmas. We opened White Oaks in January 1966, and our first boys included a pair of brothers, 10 and 12 years old, from the Nishnawbe Aski Nation in Red Lake. In the words of the song, they were "Five hundred miles away from home."

My mandate was to model a family environment as closely as was possible in those days. We rapidly became known as "the Disneyland of the correctional system." I have since met many of the boys who went through White Oaks. It says nothing about the effectiveness of our treatment, but the fact that they said their time in White Oaks was the best time in their lives told us a great deal about their needs. The first rule of management that the old supervisors were taught was, "Show the kids who is boss." We replaced it with a new rule, "Let them know that you want to hear what they have to say."

The environment was changing in the 1970s. Recognition of widespread abuse of children began to hit home, but there was another movement that was equally beneficial. It began with a general recognition that we were using ineffectual methods of helping children. Our

systems demanded that a child had to be labelled to receive service and provided teams of service specialists who worked in boxes called "education," "mental health," "developmental disability" and "delinquency." Once a child was labelled, his treatment was decided by his or her label.

The second point I want to make is that there are basic principles of child advocacy, and it would be good to identify and mandate some of them in the legislation. A key principle of child advocacy is that every child is an individual. Class advocacy doesn't address those issues. His or her voice is unique. There are unique needs and circumstances and, in consequence, we supported a movement known as "hard to serve," which refused to label individuals in categories and called on the service specialists to come out of their boxes and sit down together to solve the problem of how to serve each child who had special needs. The legislation should identify this reality and mandate the advocate to provide this service. It's essential.

A young, energetic youth court judge from Kingston named George Thomson was appointed assistant deputy minister to the Ministry of Community and Social Services with a clear mandate to provide children with legislated rights and overhaul the system of child care in the province.

One of his first projects was to revise the legislation and prepare the Child and Family Services Act, which, among many changes, made provision for the first provincial advocate for children in Canada. He embraced the principle that all children, even the hard to serve, had full rights to effective care and called me to Toronto to develop the hard-to-serve unit, which, a few months later, became the Office of Child and Family Service Advocacy.

There are other principles of child advocacy in Ontario that should be identified in the legislation. There are populations of children in Canada who have suffered deprivation. I will never forget a week of attendance at a trial in Pickle Lake when I realized how utterly neglected the rights of children and young people of Osnaburgh had been and how helpless I was to assist. An advocate must be mandated to protect all children and given access to the necessary resources. The only document I know that provides an authoritative summary of the rights of children in every country in the world is the UN Convention on the Rights of the Child. Very little notice is taken of that these days.

The convention was adopted by the General Assembly of the UN in November 1991. It was ratified by a huge majority of the members in the shortest time for any convention. It was ratified by Canada on May 28, 1990, and it entered into force here by the end of June. More to our point this morning, I would direct the committee to the proceedings of this Legislature on June 13, 1990, when a motion from David Reville was unanimously approved to support the acceptance and implementation of the convention.

I clearly remember the Honourable Charles Beer, Minister of Community and Social Services in the gov-

ernment of the day, standing in the House and waving a copy of this document, Children Have Rights Too, accompanied by warm applause from the members.

Children's rights are beyond party politics. Brian Mulroney was the Prime Minister who signed the articles of ratification. He appointed Stephen Lewis, who had been leader of the NDP in Ontario, to the post of Canadian ambassador to the UN. Stephen established a leading role for Canada in the creation of the convention. The convention has been an inspiration to all child advocates because it is authoritative and, when it is implemented, will declare that we have accorded young people in Canada the right to be treated as individual human beings and have kept the promise we made to them 27 years ago. The legislation you are discussing today is an important part of that promise.

There's a final point I want to make. One of the rights stipulated in the convention is the right to be heard. It is established in article 12, which reads:

"1. States parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

"2. For this purpose, the child shall in particular be provided the opportunity to be heard" in court proceedings.

This may turn out to be one of the most critically important rights in the whole covenant with children. Here's a story to illustrate what I mean.

There was a series of inquests in Ontario on children and youth who died while they were in care. At each, there was an array of notable lawyers to represent the interests of individuals and organizations who had somehow been involved in the circumstances of the deaths. In the last two of those inquests, it was possible to find funds to hire a lawyer with a special skill for working with young people and to put together a group of children and youth who had experienced life in similar circumstances to those of the subject of the inquest.

Stephanie Jobin was a 13-year-old girl with a history of autism who died by suffocation in a group home. David Meffe was a troubled young man who committed suicide by hanging himself in the Metro Toronto Detention Centre. The intervention of the voices of young people at both inquests provided dramatic evidence that they should be an essential part of every inquiry concerning the protection of children. They turned the inquest on its head and exposed what was intended by many of the parties to stay hidden. In David Meffe's case, the jury recommended the closure of the institution.

It is a basic principle of advocacy for children that they must be heard. The prevailing symbol of advocacy must be an ear. The child advocate may need to be a good administrator—I never claimed to be that. He or she could be an impressive speaker—and that's not me. But what should the legislative committee look for when they search for the next independent child advocate of Ontario? I give you two imperatives: She or he must be

passionate about the rights of children, all children, and equally passionate about hearing what they have to say. Thank you.

**The Chair:** Thank you, Mr. Horne. We have just under nine minutes left, so we're going to go around the table, starting with the NDP; three minutes for Ms. Horwath.

**Ms. Horwath:** Thank you, Mr. Horne, for your passionate presentation today. Can I just ask you to illustrate for us what you mean when you talk about hearing the voices of children and having youth voices heard in these kinds of forums?

**0940**

**Mr. Horne:** When I sit and listen to you, I give you full attention. I give you eye contact, I listen to how you're saying things and why you're saying things, and I respond to you as a person. That makes you feel like a person. Many children are ignored, turned away and given the impression that what they have to say is not worth anything, particularly children in training schools and places like that, where they've already committed some offence which somehow renders them less than a person. This business of learning to listen to the child is a key thing. The best administrator in the world can fail and be useless for that reason.

**Ms. Horwath:** I think I'm asking that question because we're going to be hearing from some young people as well over the days of these hearings, so I was hoping you could educate some of us who might not have the skills as to how we can make sure that we're making the most of hearing from those young people when they come here, showing them that we care about what we're saying.

**Mr. Horne:** I suggest you get out and sit with groups of kids. That's how you learn—the only way—like you're learning a language. Kids have their own language.

**Ms. Horwath:** Absolutely. Can you tell me how you think we've done so far in the process of Bill 165 in terms of engaging youth in this legislation that is so important for them?

**Mr. Horne:** I think we have not got very far with that process. I don't hear much of the voice of youth yet in the process. I don't hear what they're saying. There may be more in this hearing, but it's lacking right now.

**The Chair:** Thank you. We move on, then, to the Liberal Party.

**Mrs. Van Bommel:** Thank you, Mr. Horne, for coming in today. I was listening to you talking about basic principles, and you talked about things like every child being unique. You also talked about identifying groups in the legislation. I'm the mother of five and the grandmother of almost 11, and I can tell you that they're all different. When we talk about identifying groups, things have changed so much since I raised my own five. We've got the Internet and this whole new set of perils for our children. If we identify groups in the legislation, is there a risk that we're going to exclude or create too much concentration on what we've identified, and we

won't give the opportunity for addressing things that evolve as they do? As I say, things are changing so fast for our children right now. I'm absolutely scared to death sometimes for my own grandchildren.

**Mr. Horne:** I feel the same about my grandchildren too. But I think by identifying the groups, you give the advocate a particular mandate to look at that, and certainly native children are a key group that has been desperately ignored. But there are other groups. The Ombudsman keeps talking about the autistic, and the struggles of autistic parents to get help, to get understanding, are just ongoing through all their lives. So all I would suggest is that the identification of groups is to strengthen the mandate. Very often, people don't serve those groups because they're expensive, because they require a special kind of resource that isn't easily available. That the advocate should have a clear mandate to go and support some of those groups is necessary. As I say, the person has to care about children, first of all, and then identify where he wants to put what resources he's given.

**The Chair:** Thank you. We move on, then, to the Progressive Conservatives.

**Ms. MacLeod:** It's just a pleasure to have you here today, Mr. Horne. I think it's totally fitting that the first child advocate is here today to speak with our current child advocate, one-two.

The one thing you wrote that stands in my mind is, "The case for listening to children is more than proved." You said that; you wrote that. I concluded my speech on Bill 165 with that quote. The unfortunate thing is that we don't have more children before us today. As one of the newest members of the Legislature, and certainly the youngest, the frustrating thing for me with this bill is the lack of consultation with children—but not only that: It's the method of how we communicate to today's children and youth. As somebody who tries to keep on top of evolving technology and how we can communicate with kids through podcasts or Facebook and through the Internet and various ways, I'm wondering: Have we done a disservice at this stage of the legislation not to have employed some of those and thought outside the box as members of this Legislature to actually get to more kids in maybe a different setting? Just because we've been doing things here for 100 years this way doesn't mean that we have to continue for the next 100 years to do it the same way, sitting around a table in suits. One of the big regrets I have in this committee is that we didn't go up north and we didn't travel to the aboriginal communities that Ms. Finlay was talking about. I would like to hear your perspective on that, Mr. Horne.

**Mr. Horne:** It's a great loss; there's no question. I understand. I've watched this process going through, and I realized that if we don't get this legislation through, it may never get through. That's the great fear behind all of us who care about what's happening here. It really has to be done. We've been pressing on this for such a long time. Therefore, anything which would delay that would break my heart, in a sense. But I agree with you. The most exciting moments in my life are times when kids

have taken over. I was at a conference in Vancouver where we were talking about this wonderful thing, the wonderful convention, and kids got up and said, "Baloney. It makes no difference to us. It doesn't change our lives a little bit." Landon Pearson, the senator, was there, and the whole conference was interrupted because the kids got up and started demanding to speak, and they were telling the truth. They have a capacity for presenting truth and for saying what it's really like that just shatters the complacency with which we live: that everything's all right in our society. It isn't.

**Ms. MacLeod:** It's interesting you say that, because I hold the view, and I think a great thinker once said, "It's easier to build strong children than to repair broken men." We want to talk about how we want this bill to move forward and how we don't want the delay because it has taken so long; it has taken over three and half years for this government to finally introduce this piece of legislation.

I'm thinking, today in this world that we live in of high technology where we're able to communicate by e-mail, where we're able to communicate online, why some of those tactics weren't employed to talk to some of these kids throughout Ontario. I come from a different region. I don't come from Toronto; I come from eastern Ontario, where, in its own right, we're losing thousands of jobs in the manufacturing sector and where there are great problems on the family farm these days, where it would be great to have been able to talk to some of those kids in rural Ontario, and eastern Ontario specifically, who are struggling with mom and dad losing their job. What would you have thought about having a different tactic employed to talk to children and youth across Ontario, a different forum for children, by children, instead of always relying just on the—especially with a bill like this? I'm not suggesting that for every single piece of legislation that comes before this Legislature we change the format. But on a bill that is for children, the protection of children, to give children a voice, is there a way that we could have, prior to this stage, even though this has been rolling very quickly, we would have been able to include them in a different way?

**Mr. Horne:** There are a number of ways. I don't think the Internet is the way to do it. I know kids love the Internet and live on the Internet—but only certain kids, only urban kids generally speaking, only kids with a certain background. The kids who are on the streets don't really use the kind of Internet that you're talking about.

**Ms. MacLeod:** Yes.

**Mr. Horne:** So we really have to sit down and work out—and we certainly have offered to do that, but it's going to take some time, and the people you ought to be speaking to are the kids themselves.

**Ms. MacLeod:** Okay—

**The Chair:** That uses up the three minutes.

**Ms. MacLeod:** I had one more question, so I can't—anyway, thank you very much, Mr. Horne. We'll talk after this.

**The Chair:** Thank you, Mr. Horne, for your presentation.

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CANADIAN HEARING SOCIETY,  
TORONTO

**The Chair:** The next deputation is the Canadian Hearing Society, Gary Malkowski.

Good morning.

**Mr. Gary Malkowski (Interpretation):** Good morning, Mr. Chair. My name is Gary Malkowski. I'm the special adviser to the president and CEO and also responsible for public affairs at the Canadian Hearing Society.

The Canadian Hearing Society is an agency that has worked with and for people who are culturally deaf, oral deaf, deafened and hard of hearing for 67 years. We operate in 28 offices across Ontario. CHS strives to develop high-quality and cost-effective services in consultation with national, provincial, regional and local consumer groups and individuals.

CHS is the leading provider of services, products and information that remove barriers to communication, advance hearing health and promote equity for people who are culturally deaf, oral deaf, deafened and hard of hearing.

All CHS offices see consumers who:

- have communication barriers with staff of children and youth services programs or children's aid societies who do not know sign language nor are familiar with culturally deaf, oral deaf, deafened and hard-of-hearing issues and communication needs;

- have minimal understanding of the Ministry of Children and Youth Services' Provincial Advocate for Children and Youth, the Ontario Ombudsman, the Ontario Human Rights Commission and the human rights tribunal's complaint and investigation procedures and request assistance in navigating the entire process from intake to prosecution;

- are currently experiencing or have experienced physical or sexual abuse during childhood and adolescence—many of these consumers have.

Now I'd like to share a quote with you. This is from Karen Frayn. She is the director of CONNECT services at the Canadian Hearing Society. She has founded mental health services across the province of Ontario, and I'll now read her quote:

"I would just like to add that all CHS offices see deaf and hard-of-hearing children who are completely defenceless victims of abuse and neglect in the children and youth services system with whom they cannot communicate. The system and family do not understand the child. The child has compromised language skills, insufficient access to information, and no advocate, including family, and therefore has no voice and is the perfect victim."

Children's aid societies; provincial schools and mainstream school boards; children and youth legal systems; children and youth physical and mental health services,

including hospitals and social services; and children and youth advocates and families are all not accessible to the deaf and hard-of-hearing child. So who will advocate for these children and youth? CHS tries to take on that role with very limited resources, but it's the government's legal responsibility. CHS does not have a child protection mandate, but the government does. CHS is warning the government that this is a vulnerable population in need of advocacy and protection. If the government fails to act, they will be legally liable.

I'm now going to share with you some background information. Recent studies report the incidence of sexual abuse in various samples of the deaf population to be between 11% and 54%, currently higher than the published data for the population in general. LaBarre (1998) suggested that the incidence of sexual abuse for children who are deaf or hard of hearing could reach as high as 92%.

Furthermore, these research studies report that deaf children are more vulnerable to abuse than the general population. Factors involved in their vulnerability or susceptibility centre around communication ability and communication access, especially if the deaf children have hearing parents or are enrolled in school programs where communication access is limited (Sullivan, 1998).

The Ministry of Education's 1991 report of the Review of Student Care at the Provincial Schools for the Deaf and Blind and Demonstration Schools noted that there were a number of allegations of abuse of students at the provincial schools for the deaf and that investigations were conducted by the police and children's aid societies.

In 1997, the Canadian Hearing Society, along with the Council of Canadians with Disabilities and the Canadian Association of the Deaf, was an intervener in *Eldridge versus British Columbia*, a landmark case in which the Supreme Court of Canada ruled unanimously that deaf Canadians are entitled to equal access and equal benefit under the Human Rights Code. All services funded directly or indirectly by government must be equally accessible and of equal benefit to deaf, deafened and hard-of-hearing Canadians as they are to hearing Canadians.

The principle that discrimination can accrue from a failure to take positive steps to ensure that disadvantaged groups benefit equally from services offered to the general public is accepted in the human rights field.

CHS has submitted several briefs on substantial federal and provincial pieces of legislation and regulations that assure people with disabilities the right to access and equitable treatment. The newest addition to these requirements is the August 11, 2006, federal court decision in *Canadian Association of the Deaf versus Canada*. In his ruling, the Honourable Mr. Justice Mosley wrote:

"As Canadians, deaf persons are entitled to be full participants in the democratic process and functioning of government. It is fundamental to an inclusive society that those with disabilities be accommodated when interacting with the institutions of government. The nature of

the interests affected is central to the dignity of deaf persons. If they cannot participate in government surveys or interact with government officials, they are not able to fully participate in Canadian life.”

Although technically the federal court decision only applies to the government of Canada, on a substantive and ethical level, the decision applies to municipal and provincial governments. Should the municipal and provincial governments ever be challenged in court on a similar basis, there is little to differentiate their provision of services, as well as involvement in the democratic process and functioning of government with respect to deaf and hard-of-hearing persons, as required under the Charter of Rights and Freedoms.

CHS’s overall response to Bill 165 is what I’ll share with you now. In general, CHS is pleased that the government established and supports the independent office of the Provincial Advocate for Children and Youth and applauds the leadership of their shift to direct reporting to the provincial Legislature. However, CHS has very serious concern with the direction that the government is taking in Bill 165 in establishing the office and with the process by which this bill has been brought forward.

CHS is concerned that Bill 165 leaves out young individuals who receive help from the advocate’s office currently, such as children and youth in schools for the deaf and those on probation or in police custody. It is not clear if the advocate’s office will be able to help children and youth with complex special needs.

Currently, many deaf children and youth in school boards are not able to get help from the advocate’s office. Bill 165 does not seem to address this gap, leaving these children and youth still without the opportunity to get help, to receive assistance from the advocate’s office.

Problems with Bill, 165, as noted: The government’s plan for the Provincial Advocate for Children and Youth, as set out in Bill 165, has other serious deficiencies as well.

First, Bill 165 provides no direct inclusion of the provincial/demonstration schools. For example, the Ministry of Education and the Provincial Advocate for Children and Youth want to continue with the memorandum of understanding, and this can be cancelled by either part at any time.

Second, Bill 165 provides no guaranteed protection for deaf and hard-of-hearing children and youth in either provincial schools for the deaf or school boards.

Third, in important ways Bill 165 violates the United Nations Convention on the Rights of the Child and the recently signed United Nations Convention on the Rights of Persons with Disabilities by not providing deaf and hard-of-hearing children with help from services such as the provincial advocate’s office.

Fourth, Bill 165 does not address the needs of deaf and hard-of-hearing children and youth who are in northern Ontario and rural areas who are in dire need of services from the Ministry of Children and Youth Services and the Ministry of Community and Social Services.

Bill 165 raises more questions than it answers. When the government creates laws that directly affect culturally deaf, deaf oral, deafened and hard-of-hearing children, how can they be included from the outset? Is there a role for the advocate to ensure that they are included? Should culturally deaf, oral deaf, deafened and hard-of-hearing youth help select the person who will be the advocate? Will the advocate’s office continue to serve deaf children and youth at provincial schools for the deaf? Will it provide services to deaf children and youth who are in school board programs? Should the advocate have more investigatory powers? What other powers does the advocate need to be able to do their job?

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Bill 165 does not improve the provincial advocate’s office either regionally or provincially.

Our recommendations: Our recommendations for Bill 165 are offered here as amendments only if the government decides to go ahead with this bill instead of substantially redesigning the provincial advocate’s office.

CHS would have preferred that, from the outset, the government had consulted the public, including persons who are culturally deaf, deaf oral, deafened or hard of hearing on how to reform the office of the Provincial Advocate for Children and Youth most effectively. CHS would be pleased to assist the government with any such consultation.

If, however, the government proceeds with Bill 165, CHS asks that the bill be amended to achieve the following:

Ensure that Bill 165 does not take away any rights from children and youth as defined in the United Nations Convention on the Rights of the Child and the United Nations Convention on the Rights of Persons with Disabilities;

—ensure that Bill 165 does not take away any services from children and youth at provincial schools for the deaf, which expressly includes provincial and demonstration schools in Bill 165;

—include in Bill 165 a mandate of services for deaf and hard-of-hearing children and youth who are in school board programs;

—ensure that Bill 165 shall define clearly how young culturally deaf, oral deaf, deafened and hard-of-hearing people will know about the advocate and how they will be able to get in touch with them if they should need assistance. For example, there is nothing that says that children and youth need to have that information and nothing that says that it needs to be accessible to them; for example, through the use of TTY and video relay services, being able to make a private call or to request a sign language interpreter;

—ensure that your consultations and the legislative and policy decisions that will eventually result from them will help all children and youth with disabilities, including those who are culturally deaf, oral deaf, deafened and hard of hearing, while also increasing public awareness and removing the stereotypical thinking and negative attitudes toward culturally deaf, oral deaf, deafened and hard-of-hearing children and youth;

—ensure that public consultation processes be accessible to culturally deaf, oral deaf, deafened and hard-of-hearing young people who require more lead time to contact, arrange and confirm support services such as sign language interpreters and real-time captionists. These support services enable culturally deaf, oral deaf, deafened and hard-of-hearing young people to prepare their submissions and presentations and to express their ideas in their own language or by a means accessible to them. Limited literacy levels mean that some consumers require more time to read and understand Bill 165 and its implications;

—ensure that through policy development and awareness/sensitivity training, Bill 165 confronts and eradicates ableist/audist attitudes and behaviours in the office of the Provincial Advocate for Children and Youth;

—ensure that the provincial advocate's office hires trained staff who communicate using American Sign Language and who have the knowledge, understanding of and sensitivity to culturally deaf, oral deaf, deafened and hard-of-hearing children and youth when providing services regionally and provincially;

—ensure that there are clear internal policies and procedures for providing access and accommodation for culturally deaf, oral deaf, deafened and hard-of-hearing children and youth in provincial advocate offices;

—ensure that there are clear internal policies and procedures for communication access provision for applicants and appointees to the office of the Provincial Advocate for Children and Youth; and

—provide that regular, mandatory awareness training be provided to all levels of staff of the provincial advocate's office about the communication needs of culturally deaf, oral deaf, deafened and hard-of-hearing children and youth and how to meet those needs.

In conclusion, CHS strongly endorses the immediate need for establishing and providing for the office of the Provincial Advocate for Children and Youth. Bill 165 needs to include an enforcement mechanism, quality assurance and sufficient resources to ensure that qualified accommodation measures are available; for example, sign language interpreting and real-time captioning. The legislation needs to have authority and be suitably funded so that proper systems can be set up to monitor and enforce the powers and functions of the Provincial Advocate for Children and Youth by strengthening Bill 165.

Bill 165 will clearly be inadequate unless amendments to include services for deaf and hard-of-hearing children and youth at provincial and demonstration schools and for deaf and hard-of-hearing children and youth who are in school board programs are made before third reading. Bill 165 falls significantly short of what is needed to strengthen and improve the effectiveness of the Provincial Advocate for Children and Youth.

CHS is prepared to work closely with the Provincial Advocate for Children and Youth to develop appropriate policies and provide awareness training for provincial advocate personnel to ensure that culturally deaf, oral deaf, deafened and hard-of-hearing children and youth

can be full participants in any services in which they may be involved.

I would also like to say that I am actually a child victim myself. I had no services to assist me. Parent abuse and school abuse was what I had experienced. I had no one to listen to me. I survived.

Personally, it is extremely important and it is such a need to have these services provided. There are many thousands of deaf and hard-of-hearing children who need the counselling and support services made accessible to them. I need you to listen to the children. Don't focus on the parents; don't focus on the professionals—don't only focus on them. They have fancy resources. They have this, that and the other, but do not forget about the deaf children such as myself who are victims. The government continues to blame us—they blame the victims continuously.

I am extremely concerned about the quality of service, and I am asking you to please listen to the needs of deaf children. Permit them, allow them to express their rightful opinion. They are truly important.

There are thousands of deaf and hard-of-hearing children who are being wasted in terms of their human resources. They are in hospitals, institutions and correctional facilities. They are missing so many wonderful opportunities. I am asking you, the government, the opposing party—I am asking all of you to improve this bill and move forward with supporting these children. Put them first. With your support, we can do so. Thank you.

**The Chair:** Thank you, Mr. Malkowski. You have used up the 15 minutes, the time allocated for you, and unless the committee has an important question—if there are a couple of minutes, with the consent of all three parties?

**Ms. MacLeod:** Maybe a minute each?

**The Chair:** We'll have a couple of minutes for each party.

**Mr. Shafiq Qaadri (Etobicoke North):** Yes. Let's rotate.

**The Chair:** I'll start with the Conservatives.

**Ms. MacLeod:** Thank you, Mr. Malkowski. I have one question. How could we have communicated better to the deaf community to improve this piece of legislation before we got here today?

**Mr. Malkowski (Interpretation):** By establishing video services. You have this in print format—the bill is in print format. Have it available in ASL so they're able to view it in their first language, American Sign Language, as well as langue des signes québécois, Quebec sign language. We have that available. The Ministry of Health, actually, put the flu information on their website, because many deaf children are unable to read the English print, but they can view it in the American Sign Language on websites.

You could host a community forum inviting those children, those youth, to come and share their experience and their feelings with you, understanding not to have that happen under the supervision of parents. Children need to feel free and not feel monitored, not have pro-

professionals or whomever monitoring and manipulating their expressions. They need to have a forum in which they can freely express their opinions and views so that you then are able to listen to their frustration, listen to what it is they need.

Parents and professionals need to learn. They need to change their attitudes. They tend to be overprotective and over-monitor these children. It does more harm than good.

**The Chair:** We'll move on, then.

**Mr. Malkowski (Interpretation):** I think it's important for them.

**The Chair:** Thank you. We'll move on, then, to the NDP. Ms. Horwath.

**Ms. Horwath:** Thank you, Mr. Chair. Gary, I'm just following up on what Ms. MacLeod was asking. I want to know specifically: Were you engaged with either the ministry or the child advocate's office in any discussion about the preparation of this bill prior to today? Were you engaged in any kind of consultation, discussion or anything at all that would have brought some of the concerns you've raised today into the drafting of the bill that we have in front of us?

**Mr. Malkowski (Interpretation):** To be fair, I do have a very good relationship with the provincial advocate's office. They have a wonderful staff, a very positive staff. The problem is that they have limited resources to be able to do what it is that they've been mandated to do. The Canadian Hearing Society has a very positive experience working with them, and not only the provincial advocates—but there is problem, a systemic issue here, as well. I would ask that this committee look to the mandate and the recommendations, and that will then help it to improve.

Judy Finlay, who presented earlier this morning, and the second presentation as well, Les Horne—you need to listen to their recommendations.

**Ms. Horwath:** Thank you.

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**The Chair:** Thank you. We'll move on to the Liberal Party: Mr. Qadri and then Mrs. Van Bommel.

**Mr. Qadri:** First of all, thank you very much, Mr. Malkowski, for your impassioned and inspiring remarks today and—I think I can perhaps speak for not only all members of this committee but indeed all members of the Legislature—for your continued service in this area, particularly as a former member of provincial Parliament yourself.

As a physician, I'm familiar with a number of terms with regard to hearing impairment—for example, traumatic deafness, congenital deafness—but I apologize: I'm not familiar with the term “culturally deaf,” and I'm wondering if you might explain to this committee what exactly that means.

**Mr. Malkowski (Interpretation):** Absolutely. Ten per cent of deaf children are born to deaf parents. They do use American Sign Language as their first language. For some hearing parents who use sign language as well, those children—and that would be myself. I would be a

culturally deaf individual who uses American Sign Language. Some deaf children who do not use sign language—they would prefer other methods of communication, such as voice—would be called “oral deaf.” “Deafened” are individuals who were born with their hearing and later in life do become deafened. They can speak but they cannot hear. The fourth group, being hard of hearing, may have lost some of their hearing but they do have residual hearing. They may use FM systems or hearing aids to assist them in listening auditorily. So those are the different groups.

**Mr. Qadri:** Thank you again.

**Mr. Malkowski (Interpretation):** If I can just add one very important piece for the committee: the Ministry of Education. This is a huge, huge issue. We had a community forum in Toronto and we will be having one in Ottawa tomorrow. It's important that each and every one of you listens to the community forum's concern. We had a large, large number of deaf youth who were there because they're frustrated with the current education system, and I'm speaking of both the demonstration provincial schools and the public school boards.

I would ask this committee to contact the Minister of Education. She has not responded to my letters, but she needs to respond to the concerns that are happening currently. We have to think of these children and youth, as their education and their mental health are at risk. They require these resources. They have strong needs. I would ask that you send a letter to the Minister of Education in relation to this topic asking her to move forward with an investigation.

**The Chair:** Thank you very much for your presentation, Mr. Malkowski. Someone will look into that, I'm sure.

**Ms. Horwath:** Mr. Chair, I don't know whether it's appropriate to actually move a motion that we indicate to the Minister of Education that that issue came up during our committee and that we would like her to perhaps address it. I'd be prepared to move that motion.

**The Chair:** Or to at least get the minutes from the meetings, if there are minutes available.

**Mr. Malkowski (Interpretation):** I can send you a copy of our open letter.

**The Chair:** Okay. Thank you.

**Ms. MacLeod:** Mr. Chair, I also respectfully submit to this committee that we should make the minutes of this meeting and the bill available in ASL on the website so that our hearing-impaired community will be able to communicate with us as we move forward.

**The Chair:** I think the transcripts, as opposed to minutes, may be more—

**Ms. MacLeod:** Transcript, sorry.

**The Chair:** Thank you.

**Ms. Horwath:** Mr. Chair, I don't know what happened to my motion.

**The Chair:** I'm sorry?

**Ms. Horwath:** I don't know what happened to the motion. I don't know if—

**The Chair:** You were requesting that we write to the minister?

**Ms. Horwath:** I was moving a motion that we write to the Minister of Education reflecting the concerns that were raised about deaf children in schools and bring to her attention the issues that came before our committee, particularly in terms of access to education for children who are deaf, and the mental health concerns that they have as a result of not being able to achieve success in the school system.

**The Chair:** The committee has the mandate to deal with this bill. I'm not sure if that's in the mandate of this bill. We could ask her. I'm not sure what kind of answer we're going to get. I was hoping that the transcripts may be more useful, but—

**Ms. Horwath:** Are you ruling the motion out of order, then, Mr. Chair?

**The Chair:** No, I'll rule it in order, and we can have discussion or a vote on it, if others have any further comments on it.

**Mrs. Christine Elliott (Whitby–Ajax):** I second the motion, Mr. Chair.

**The Chair:** Thank you, Mrs. Elliott. Mr. Zimmer?

**Mr. David Zimmer (Willowdale):** With the greatest respect, I don't think it's in the mandate of the committee to proceed that way. Otherwise, we get ourselves in the position, in effect, of corresponding with relevant ministers on committee business for everybody who presents before any committee, whether it's this committee on this subject or indeed any other subject. Then the committee system grinds down and becomes another forum.

The minister's office, obviously, has a transcript of this. This is a part of Hansard. The minister responsible, whether it's for the issue that we're dealing with at this committee or indeed any other committee on any other issue, receives Hansard and takes all the suggestions, comments and concerns under advisement via that Hansard transcript. That's how the committee does its business.

**The Chair:** Thank you. Any other comment? To the motion, then, of Ms. Horwath. All those in favour? Opposed? That does not carry. Thank you. It still doesn't prevent any individual member from writing directly to the minister.

Thank you again, Mr. Malkowski.

#### CONCERNED CITIZENS AGAINST CHILD PORNOGRAPHY

**The Chair:** We move on to the next presentation: Judy Nuttall, Concerned Citizens Against Child Pornography, White Ribbon Against Pornography campaign.

**Ms. Judy Nuttall:** Good morning, ladies and gentlemen. Thank you for giving me the opportunity to speak.

Concerned Citizens Against Child Pornography has worked in Barrie, Ontario, for over 10 years to bring awareness to parents and to our community that the safety of their children can no longer be taken for granted. Working with the White Ribbon Against Por-

nography campaign, each year we deliver boxes of ribbons and information to high school staff rooms. Letters containing white ribbons are sent to all members of Parliament. Boxes of ribbons with flyers have been available in banks, churches and stores. Letters have been sent to the national and local papers; interviews on local television and phone-in programs with Rogers. Letters were sent to all provincial MPPs in Ontario during the past seven or eight years, and in 2006, it is recorded in Hansard that by unanimous vote, white ribbons against pornography be worn for one day. For that, we would like to thank MPP O'Toole. In the justice committee last month, the MP for the Northwest Territories emptied an envelope full of ribbons which he receives every year from his constituents. This is not just local; this is a national organization. We also sent 8,000 letters from Barrie constituents to the judges of the Supreme Court, pleading for the age of consent to be raised as the John Robin Sharpe case was being debated.

Why am I involved in this? Let me take you back to one day soon after I had completed my probationary year for teaching. I was teaching a reception class of four- and five-year-olds in inner-city Liverpool, England. I remember seeing a little boy fall asleep, resting his head on the shoulder of the child sitting beside him as I read a story just before the end of the day. The following day, I went into school singing as I prepared the classroom for the day. I suddenly became aware of a silence—an extraordinary stillness, as if someone was holding their breath—and that stillness seemed to hang over the school. I went up the stairs and found out that the same little boy whom I'd noticed the night before had left school and met up with a "friend." This older boy had taken Eddie to a disused house, raped him and destroyed Eddie's life. That young man was 19 years old. He turned himself in to the police station and took them to where Eddie's body lay.

During the school assembly that morning, I stayed in the staff room. My eye fell on my Bible verse concerning little children, that "their angels do always behold the face of the Father." It brought me great comfort to know that Jesus knew about Eddie.

You, who are here in Toronto, have lived through the horror of the Holly Jones murder, so you may understand some degree of the trauma that we went through in the 1970s—the teachers, the children at both schools locally; the parents; and the medical, social and community workers. There was a shock element in this tragic, deviant killing that hit home right across Britain.

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You have Christopher's Law, but I have heard repeatedly that it does not go far enough, that it has not been implemented to the necessary extent, thereby depriving it of the intended power and leaving loopholes through which the offender may slip. Stronger action must be taken to prevent a recurrence and to protect the children of our country.

Many killers have confessed to an addiction to pornography that started in their childhood or teen years, an

addiction that has become a driving motivation for sexual abuse, often for kids, which turns to murder. This is not so in every case, but you only have to hear Bundy on this, and Bernardo too, to realize that there is an inescapable link between sexual offenders who kill and pornography.

The Universal Declaration of Human Rights was and is being abused here in Canada. In exercising rights and freedoms, there must be accountability, for corrupt use of personal rights which harm other people, especially our children, then become an abuse of all our rights—your rights and mine. The rights of the victim have to be carefully balanced against the rights of the offender. Without this, we lose our freedoms, disintegrating into a justice system that has lost its way and lost sight of what justice really is.

In 1995, a judge in Toronto ruled that the man who sexually abused his 14-year-old stepchild should receive a minimum punishment. There was no concept given to the agony of the victim. Then, 1999 brought the scourge of child pornography right to our doors, in Barrie, when Cohen was found guilty of possession of and producing child porn. A jail sentence was ruled, but on being sent to the Ontario Court of Appeal, it was commuted to house arrest, causing great anger locally. Then the case of John Robin Sharpe, with all its twists and turns, emerged into the public eye—no, to the appalled vision of all countries across the world.

The linchpin of the increase in child porn in Canada centres on the age of consent. Canada has the lowest age of consent for sex in the whole world:

“At 14, Canada’s consent age ... is lower than most ... western nations ... there is no other western country that has legalized sex as low as the age of 14.... A growing number of foreign men have used the Internet to lure Canadian children....” That’s from the National Post.

“Reducing the age of consent is the key to the rise in pedophile crime, including Internet luring and abuse”—CCACP.

On asking my former MP about this, she replied that the age of consent lay with ancient law. How many other ancient laws has Canada retained? The USA and UK and other countries have updated their medieval laws on marriage and sex. Why hasn’t Canada?

“The age of consent continues to be a legal loophole by which pedophiles are abusing our children. Action must be taken, and quickly, to protect and ensure the innocence of our children.”

Here I refer back to the previous presentation with regard to the terminology of “culturally deaf.” If I may, I would like to take it into the context of child pornography and pedophile crime, for there is a cultural deafness in our country when it comes to the cries of the children and to court actions:

“Even Third World countries are more civilized and conscientious about our duty as adults to protect the most vulnerable components of our society—our children.” That’s from police chief Fantino.

“A clear and present danger is facing our children”—Focus on the Family.

“We believe the rights of children should be superior rights in our country, to the rights of perverts”—Manitoba Premier Gary Doer.

“Children abused in child pornography demonstrate multiple symptoms—emotional withdrawal; antisocial behaviour; mood swings; depression; fear; anxiety; suicide; high risk of becoming perpetrators in later life; have destructive feelings of guilt and shame”—ECPAT.

Pornography desensitizes children. Pornography motivates abuse for both children and women. Pornography leads, in some cases, to murder. This is not a victimless crime. It is a vile act which is polluting our country. Canada has outdated, time-consuming, ineffective, expensive pornography investigations and pornography laws. Outdated disclosure rules force police to examine every computer file they seize before a charge is laid. Other western countries examine a token number of files and then arrest the pedophile. The work of Project P and KINSA and other ground-breaking endeavours are making clear progress in this very stressful and difficult protective work for our children: our children in Ontario, our children of Canada.

Finally, the Name and Shame movement in England held a very apposite point, as this headline illustrates: “Named and Shamed: The MPs Who Won’t Back”—in this case—“Sarah’s Law.” It’s similar to Christopher’s Law and to Megan’s Law in the States. In the same way, a province that legalizes pornography for the home but not in public is not fulfilling the mandate to which it has been elected, and such is the state here in Ontario. We must implement laws that have strength and not seek to weaken our system so that our children suffer. This, I believe, is the mandate of this advocacy meeting. There is a silent cry that has no voice as yet from the hearts of our children. An advocate for youth and children must be there to help to break this silence, bringing help, reaching out for the children and acting proactively to hear and act for the children. I call on this meeting to raise the age of consent in order to protect the children of Canada, who are the future generations of this country and the future leaders of Canada. Thank you.

**The Chair:** Thank you for your presentation. We have about five minutes left, so about two minutes per party. We’ll start with the Liberal Party this time.

**Mrs. Van Bommel:** Thank you very much for your presentation. You talk about raising the age of consent. Do you see a role for the child advocate in doing that?

**Ms. Nuttall:** I think that the sickness that has pervaded our country as a result of the silence needs to be broken through. A child advocate or some way to reach the children so their voice can come out is vitally necessary. I go along totally with what our previous speaker mentioned. And possibly, as I’m a teacher, I might mention that a small cartoon presentation in both cases would help, because kids love pictures. Their voice needs to be heard, and it isn’t at the moment. Have I answered your question?

**The Chair:** Thank you. We move on to the Conservative Party.

**Ms. MacLeod:** Thank you very much, Ms. Nuttall. I know I speak for everyone here: There's nothing more painful for any of us to hear than a young child being sexually abused. I just want to, for your information, let you know that I fully support raising the age of consent to 16. I have a beautiful little girl, and it just pains me whenever I hear of that atrocity.

In terms of this piece of legislation, I think we've heard from the previous speaker talking about deaf children who have been abused and victimized and how there's no real way for them to communicate. It's very difficult. I would like this, in my experience in the last year as the critic for children and youth services for the official opposition, that children, when they are victimized or abused, draw inward. I think it's more important that they have somebody whom they can rely on to communicate with passion on their behalf and to have just the simple ability to look through that child's eyes, to draw them out of that deep, dark experience that they've had.

Just if you could, in a minute, let us know exactly how you feel your presentation relates to this piece of legislation and, if anything, how it needs to be modified; if you could do that for us.

1030

**Ms. Nuttall:** I need to say that I heard for the first time last night, about 4 o'clock, that I would be speaking today, and I received the bill in my mailbox yesterday afternoon around the same time. I have read the bill. I understand—I feel strongly that what you are doing in founding this committee is a massive step in the right direction.

Children respond individually; they don't respond corporately. This is a one-to-one thing, and that's where advocacy comes in, so that they know they have somebody who stands for them, somebody they can talk to and who can actually reach into their hurt and help to bring them out into a healing situation. I don't know exactly how to answer that beyond this. I do know that the age of consent is acknowledged as the linchpin with the pornography issue, and the pornography issue is—I was going to say “a disaster”; it's a terrible thing.

**Ms. MacLeod:** It's heartbreaking.

**Ms. Nuttall:** Yes.

**Ms. MacLeod:** I think we agree.

**The Chair:** Thank you. The NDP: Mr. Marchese.

**Mr. Rosario Marchese (Trinity-Spadina):** I'm sorry, Ms. Nuttall, that I didn't hear your entire submission. I thought my colleague was going to hear it all and respond.

I've got a couple of questions that are of concern to me. They have to do with the independence of the child advocate. Page 9 of the bill talks about other reports that the child advocate is supposed to present to the minister, and I'm concerned about how that affects the independence of the child advocate. It says, “The advocate may make any other public reports as he or she considers

appropriate, and may present such a report to the public or any other person he or she considers appropriate, but shall deliver a copy of the report to the minister of any ministry to which it is relevant at least 30 days before the presentation.”

Do you think that this section, as it is worded, saying to the child advocate that he or she has to present the report and give it to the minister 30 days in advance, is an appropriate thing to do in terms of how it maintains or ought to maintain, at least in perception, the independence of the child advocate? It seems to me to allow for some attempt by the ministry to manipulate some of the content of that report, at least in perception. What do you think?

**Ms. Nuttall:** I think you can safely release information that is statistical and of general note, but I would not be in favour of breaking confidentiality. Is that where you're coming from?

**Mr. Marchese:** Well, it says that this report has to be given to the minister 30 days in advance. My concern with that is that, at least in perception, it allows the minister to be able to affect the final copy of that report. That is my concern. It may not happen, but even printing it this way permits changes, or pressure to bear upon the child advocate to make changes, to a report. That's my concern. I just wonder whether you—

**Ms. Nuttall:** I think that if a report is submitted by an advocacy group and is manipulated to fit the political thinking of the day, it is an aberration. If that is going to happen with this group, forget it, because that is what has happened so many times through the years. That is why there is a culture of silence, and that silence is what is harming our children and what has caused this incredible underground growth of things that affect our children negatively.

**Mr. Marchese:** Do I have time for another question?

**The Chair:** We've already used up about two minutes each.

Thank you for your presentation, Ms. Nuttall.

PATRICIA SPINDEL

**The Chair:** We'll move on to Dr. Patricia Spindel. Good morning.

**Dr. Patricia Spindel:** Thank you for this opportunity to make a presentation concerning Bill 165.

You have before you a written submission prepared prior to some of the positive changes that have been made to the bill, so my remarks today will highlight those changes as well as address additional amendments that would, in my view, strengthen the bill and the functions and powers of the child advocate.

My work for over 30 years has been as both a professional and volunteer advocate for and with children with serious mental health concerns or developmental disabilities and their families. At the present time, I am a professor in day-to-day contact with young people in the post-secondary education sector. Over these many years, I've learned that the title of the old song does not apply

to many children and youth in Ontario: The kids are not all right.

Young people who describe themselves as “survivors of the child welfare system” are not all right, nor are young people who have suffered horrible neglect, abuse or abandonment by their families. Children with disabilities whose families are unable to obtain the basic funding support to address their needs and who still face stigmatization and segregation in schools and society at large are not all right either. Aboriginal children who do not enjoy the basic necessities of life are not all right, nor are children who face discrimination and maltreatment because of their race or class; nor are the growing numbers of young people entering post-secondary education who are deeply troubled all right.

If ever children and youth in Ontario needed strong, fearless and independent advocacy, they need it now. Today, collectively, as legislators, opposition members, parents and citizens, we have a major opportunity to ensure that children and youth will have an effective child advocate to ensure that their voices are amplified, their concerns heard and addressed and their interests served. If we cannot adequately protect our children and preserve their best interests, then we have failed in one of the most basic tasks required of us.

At the present time, children and youth who fall under the jurisdiction of the Ministry of Correctional Services and child and family services acts will have some rights protections, but those who fall under the Ministries of Health and Education will not. This discrepancy should be addressed with respect to the child advocate’s functions. Children basically should have an advocate wherever they live or go to school.

Concerning the child advocate’s powers, the addition of public education, clause 14(1)(o), is a positive step. However, this section could be expanded beyond public education about the child advocate’s role and the act to also include public education about issues of concern to children and youth.

The addition of subsection 19(5), legitimizing the child advocate’s right to make public reports, and section 20, prohibiting lawsuits for actions undertaken in good faith, are also positive steps because they reinforce the child advocate’s ability to speak freely. However, I think a question was asked: Should the child advocate have to give prior notice? My answer to that would be an unequivocal no.

Perhaps the most positive addition is subsection 22(5), emphasizing that the child advocate “is not a public servant within the meaning of the Public Service of Ontario Act.” This of course means that staff of this office are also not members of the public service bargaining unit, and this is an important part of ensuring the complete independence of the office as well as the child advocate’s ability to independently establish the terms and conditions of their employment. However—and I note that the act does address this—benefits equal to the public service apply in subsection 22(4), and that is a positive addition.

The act now also gives the child advocate the power to inform senior government officials of policies, procedures, actions or laws that either negatively affect children and youth or otherwise place them at risk of incarceration, hospitalization or other restricted living situations.

All of these parts of my written submission have been addressed, at least to some degree. Let me now turn to the areas of concern. The first is the absence of investigative powers for the child advocate. British Columbia has established in its act the power of the child advocate to conduct investigations at the request of the Attorney General. Quebec has also granted this power to its child advocate, and Newfoundland gives the advocate the power to review or to investigate. In cases where it appears that children are being placed at serious risk, at minimum the minister must have the power to delegate investigative powers to the child advocate.

I realize that this is a contentious issue because the child advocate, by definition, has a necessary bias in favour of children, rather than being impartial. However, in compelling circumstances, it seems reasonable for the child advocate to be given investigative powers. Where it appears that action or inaction on the part of either government or service providers has grievously failed children, the child advocate should have the right to compel witness attendance and testimony, to collect evidence from witnesses placed under oath and to compel the production of records relevant to an investigation. As well, anyone providing misleading information to the child advocate or to members of her or his staff during the process of a review or investigation or anyone who fails to comply with reasonable requests by an advocate for access to children and youth and to information in the course of a review or investigation should be subject to a penalty in the form of a fine of up to \$5,000 for contempt and obstruction of a review or investigation. The right of the child advocate to determine whether or not a review or an investigation might best serve children in these circumstances should be included in the act.

#### 1040

The second concerns access issues. There should be a general presumption of right of access to children and youth and to their records where warranted in the act. British Columbia gives its advocate right of access without having to give prior warning, and Ontario should do the same. Other acts in Canada, including BC’s, give the child advocate right of access to information in the custody of a public body, and Ontario should specifically do the same.

An important omission in the act is specific to protection from reprisals or recriminations for children and youth seeking to contact the child advocate. Obstructing young people wishing to contact the office should also be subject to penalties including a fine. At the present time, the act states that an agency or service provider “shall,” not “must,” inform children of the existence of the child advocate and her or his right to access the office. This should be corrected in the act.

My third concern relates to confidentiality of information. The child advocate should not be required to disclose information obtained under the act, except where it's necessary to carry out her or his duties or powers and functions. Third parties should not be in a position to demand access to information held by this office, especially information gathered in the course of a review or investigation. This omission should be corrected in the act.

My final concern relates to freedom from political interference. Most Canadian legislation provides for specific grounds leading to the removal of a child advocate, and Ontario should do the same. Specific grounds might include incapacity, neglect of duty, misconduct and conflict of interest. These grounds need to be spelled out to ensure that no child advocate needs to avoid speaking out publicly on behalf of young people for fear of being removed from office for political reasons.

In conclusion, I believe that addressing these omissions would greatly strengthen the child advocate's abilities to better represent the interests of children and youth in this province. I thank the committee again for the opportunity to present my views on Bill 165.

**The Chair:** Thank you, Dr. Spindel. We have about seven minutes, so about two or three minutes per party. We'll start this time with the Progressive Conservative Party.

**Mrs. Elliott:** Thank you very much, Dr. Spindel, for your very insightful and succinct comments with respect to this bill. I must say at the outset that I agree with your comments entirely. When I read through the bill, the concerns that you have jumped out at me immediately as well.

I think what we've heard from many of the witnesses who have given evidence this morning is the fact that there are many children who need to be protected in very, very difficult circumstances, where there are going to be, in the child pornography example and the deaf and hard-of-hearing children, children who are extremely vulnerable and where the evidence may be very well hidden as to the extent of the abuse and the need for these children to be protected. So to me, in order to have a person who is truly an advocate for the children, the advocate must be able to investigate every aspect of the abuse or potential abuse of the child, and to be able to compel testimony is one of the most important parts of that. Otherwise, you're not really able to do your job.

Secondly, with respect to the access aspect of it, again, I agree entirely that there should not be a need for notice, because forewarning kind of defeats the purpose of it.

So I really appreciate your comments. I thank you very much for being here today, and we'll certainly address those comments as we go forward with clause-by-clause.

**The Chair:** Thank you. We'll move on, then, to the NDP.

**Mr. Marchese:** Dr. Spindel, we agree with your comments on access. We said as much in the Legislature as well. This is an area where reasonable notice should not

be required. If there is a problem, the advocate should be able to go in and check it out immediately rather than allowing the body, the agency, to be able to prepare itself to deal with such a thing. I'm assuming and hoping that the government will deal with that.

On the issue of young people's access to the advocate: They have a passive right; that is, they have the right to be informed about the existence of the advocate. They don't have direct access. Shouldn't they have direct access to the advocate?

**Dr. Spindel:** I think direct access would certainly be ideal. I believe young people should be facilitated and empowered to contact the advocate's office, but first they have to be made aware of it. If the act says that they "shall" be made aware but not "must" be made aware, I think that could be problematic. So first of all, informing young people is critical, and then providing the means for them to contact that office is critical.

**Mr. Marchese:** Right. I think they suggested, "Yeah, they can be informed," and they might provide a telephone number and so on.

**Dr. Spindel:** They have to be given the means. In other words, they have to be able to privately contact the advocate office and not have their conversations monitored.

**Mr. Marchese:** Right. Okay, thank you.

One of the powers the Ombudsman has, for example, is to be able to compel ministries to respond to a complaint or something that they have ruled on and say, "You, ministry, have to respond to it." The advocate doesn't have the same right. What do you think about that?

**Dr. Spindel:** Again, I think the advocate should have exactly the same right. I think ministries should have to respond when the child advocate raises a concern, because I don't think they ever do that lightly. So for the child advocate to raise a concern publicly would say to me that it's a very serious issue, and I think the ministries ignore issues like that at their peril. Certainly, they place children in peril when they ignore issues being raised.

**Mr. Marchese:** Related to the Ombudsman, this particular Ombudsman has been saying since 2005 that he should have oversight.

**Dr. Spindel:** Of children's aid societies, I believe, yes.

**Mr. Marchese:** That's something that I support, by the way. I've found him to be particularly effective at making governments accountable. I believe he should have such a power. Do you have an opinion on that?

**Dr. Spindel:** Yes. First of all, let me say that not all ombudsmen have been quite as effective as Mr. Marin in raising issues.

*Interjection.*

**Dr. Spindel:** But I believe that there does need to be a split of responsibilities here. I think that if the government does not give the child advocate the same powers and expand the jurisdiction to include school boards and children wherever they live, then they should expand the Ombudsman's powers. But my feeling is that the Ombudsman should be responsible for adults and that the

child advocate should be responsible for children wherever they live. With respect to the Ombudsman, obviously that should include adults in long-term-care facilities, which is another issue of concern to me. He should certainly have jurisdiction over adults in long-term-care facilities. But I think the child advocate should have responsibility for children equal to that of the Ombudsman, and should be able to compel witnesses and conduct investigations in much the same way.

**The Chair:** Thank you. We'll move on to the Liberal Party.

**Mrs. Van Bommel:** I want to say thank you very much, Dr. Spindel. My question has been addressed already, so I won't be asking any more.

**The Chair:** Thank you, Dr. Spindel, for your presentation.

#### JUSTICE FOR CHILDREN AND YOUTH

**The Chair:** We'll move on, then, to the next presenter: Cheryl Milne, Justice for Children and Youth. Good morning, and welcome to the committee.

**Ms. Cheryl Milne:** Good morning, Mr. Chair and committee members. Thank you for giving Justice for Children and Youth an opportunity to present this morning our submissions in respect of Bill 165.

Justice for Children and Youth is a legal clinic operating in the city of Toronto. We've been in existence for almost 30 years. I've been at the clinic for approximately the past 16 years, which has been consistent with the tenure of our current child advocate. We have worked extensively with the current child advocacy office. In many ways, we have been the referral source for some of the legal issues that the advocacy office has not been able to resolve on behalf of particular clients. We are really pleased to see that this office is moving toward independence and we are generally supportive of the bill and what it seeks to do.

Our recommendations—first of all, I want to say that we support and very much agree with the recommendations that you've already heard this morning from Defence for Children International—Canada, and I sought not to repeat those in the brief you have before you. We think that they very comprehensively cover many of the concerns that we have. We've added some additional ones and have emphasized those that we think are of most importance to us.

First, we're suggesting that this is an appropriate piece of legislation for there to be a preamble or statement of principle that can set the guidelines for not only the operation of the office but also the expectations of the service sectors and ministries that are interacting with the new provincial child advocate. Most significantly, we would like to see a reference to the UN Convention on the Rights of the Child, the most significant human rights document pertaining to children, probably the most—it is the most—ratified or accepted human rights document the world. Ontario certainly consented to its ratification and is very much seen as being a supporter of that docu-

ment. We suggest that either in a statement of principle or a statement of purpose or, lesser so perhaps, a statement by way of a preamble, there should be recognition of the rights of Ontario children that are consistent with the UN Convention on the Rights of the Child.

#### 1050

I note that the bill itself actually recognizes one of the most important rights, in my opinion, in the UN convention, which is the right of the child to be heard and their views and preferences and opinions to be expressed and taken into consideration. That's under article 12 of the UN convention.

The importance of setting this sort of guiding principle—and I think there are others as well, and I think you're going to hear similar submissions from other groups—is that it really does establish the fact that children in this province are to be treated equally, that they have essential human dignity and autonomy. It's an opportunity, in those guiding principles, to also include those groups that you are going to hear and you have heard already feel excluded by the present bill, in that they need some special consideration, for example, aboriginal children as well as children with complex needs, some of those children who require services from multiple ministries and service sectors. By setting that out as a principle or a preamble, you actually ensure that special attention can be placed on those children.

Another recommendation that we make is with respect to the definition of "child and youth." We note that the bill itself defines "child" as in the Child and Family Services Act, which means under 18. It's our experience that there are children—young people, rather—who are still in that transition age of 18 or 19, who are still in receipt of services either under the Youth Criminal Justice Act or the Child and Family Services Act or in respect to some of the other service sectors under the Ministry of Health, who still may be in need of some advocacy, and we want to see some discretion within the office to continue to advocate for those young people.

We have also made some recommendations specifically with respect to the functions and powers of the provincial advocate. In particular—and I'm not going to go into a lot of detail; I know that the presenter following me is going to specifically deal with education, and we have joined in that particular presentation as a joint member of the Child Advocacy Project, so I won't go into detail except to say that we are in wholehearted agreement that there should be advocacy for children within the public education system. It's a big area for Justice for Children and Youth in terms of its legal advocacy for children. There's a significant gap in this province in terms of advocacy and people who can take on those issues.

Also, as our previous presenter mentioned, children who are in receipt of services through the Ministry of Health and Long-Term Care are also in need of advocacy services. The present bill really just focuses on two narrow areas, and we would like to see that expanded.

The third area is that the present bill talks about young people who are in receipt of services with respect to the

Ministry of Correctional Services and legislation dealing with young people who are serving custodial sentences. We think this should be expanded to include all young people who are in receipt of services or are being dealt with under the Youth Criminal Justice Act, and that would encompass young people who may be in a custodial situation vis-à-vis the police—in holding cells or in transportation to and from court, which is a big area where there is need of advocacy and where there can be problems—as well as young people who are receiving non-custodial kinds of sentences or services, whether it be through diversion programs or probation and the other kinds of creative sentences that are available under the Youth Criminal Justice Act. We think that as we are moving toward less and less emphasis on custody for young people in the approaches taken under the Youth Criminal Justice Act, we'd like to see that that be expanded as well.

I share the previous presenter's concerns about access to the advocate. We are very concerned about processes around confidentiality and access to information that have set up barriers to proper review and dealing with the complaints being brought forward by young people. We would like to see that those recommendations, specifically those that have been put forward by Defence for Children International-Canada, be included in the bill.

Also, we've made a recommendation—it has also been presented to you already—regarding the need for co-operation of service providers and employees who provide services to children. That was something that was part of the review that was done prior to the development of this bill. There was a recommendation, and I've made reference to that in our submission. We need to make sure that we can effectively prevent reprisal and ensure the co-operation of the people who work with young people in the work of the advocacy office.

Again, I also will answer Mr. Marchese's question in respect of the 30-day delivery requirement. We would agree that it should not be a requirement, and that it does, in our view, in fact hinder the independence of the office to require that kind of advance notice.

I'll make one final conclusion and then give you an opportunity for any additional questions—actually, I'll make two more. First, another way of including some of the most vulnerable groups in Ontario is that the provincial advocate be empowered to appoint deputy advocates. I understand that this is something that has been discussed and deemed to be necessary, specifically in respect of aboriginal children, and, we would also suggest, with youth justice.

The current advocacy office has had a distinguished history of advocating for young people in the youth justice system and has done some groundbreaking work in bringing forward their voice in the province of Ontario to understand their plight, and it has participated in coroners' inquests along with Justice for Children and Youth in some fairly difficult cases. We would like to see that role continue and that it be given the importance we think it deserves.

My final point is in agreement with the previous speaker, in that we see that there is a gap in terms of accountability for children's aid societies and an effective complaint process in that sector dealing with children. I'll leave it up to the legislators as to whether that fits with the Ombudsman's office or the provincial child and youth advocate, but it is something that needs to be addressed. It's a critical issue for our clients.

**The Chair:** Thank you for your presentation, Ms. Milne. We have about three minutes of time left, and we'll start with the NDP.

**Mr. Marchese:** Thank you, Ms. Milne. As to your last comment, we raised that in the Legislature with respect to—I'll read it again. It says, "The advocate may make any other public reports as he or she considers appropriate, and may present such a report to the public"—may—"or any other person he or she considers appropriate, but shall deliver a copy of the report to the minister," which is interesting. They "may" provide a report to the others, but "shall" to the minister. We consider that problematic, and I think the minister in the debate agreed with us. I'm assuming there will be some changes as a result of her agreement with us, but who knows?

**1100**

If you're going to have an independent child advocate, this speaks to the perception that there is no independence, that there's a possibility that something could happen to that report. That was the concern we raised, and I'm assuming that you were feeling the same thing around that.

**Ms. Milne:** I think it's the time frame that is the concern. It's not that they shall deliver a report to the ministry, but that—

**Mr. Marchese:** Oh, the time frame is what you're worried about the most, then?

**Ms. Milne:** I'll echo what the previous speaker said in terms of requiring the minister to respond. I think that we need to establish a pattern in which the report is taken seriously and responded to. Certainly the minister at one point will and should get a copy of that report, but not necessarily 30 days in advance. It's that sort of advance time frame that is the concern.

**Mr. Marchese:** But the point is that if you were allowed to present a report and force the ministry to respond, then it's all public. That wouldn't be a problem because it would all be out in the open. But there is no requirement for the minister to respond; therefore, it's a problem. Some of these create different kinds of problems that I hope the government will fix up or clarify.

The exclusion: You spoke to the—

**The Chair:** You have only about one minute. Sorry, Mr. Marchese. We only have one minute per party.

**Mr. Marchese:** I thought it was three or something.

**The Chair:** No.

**Mr. Marchese:** Very well; okay. Thank you.

**The Chair:** I'm under pressure here to get back on time. I've let it go on a bit.

Mrs. Van Bommel.

**Mrs. Van Bommel:** Thank you for your presentation. In part of your presentation, you were talking about confidentiality, privacy and access to information. You mentioned the Personal Health Information Protection Act. Could you expand on that particular reference for me?

**Ms. Milne:** Sure. The bill sets up a regime that looks at consent to release information that is drawn from the Personal Health Information Protection Act. One of the concerns that we have is that it sets up a system of substitute decision-makers in terms of release of information that in fact may be the service providers who are being reviewed or for whom there is a complaint, for example, if the child is a crown ward. The next in line, if the child does not have capacity, would be the children's aid society that has care of the child and may in fact be the source of the complaint from the child.

The second concern is that under the Freedom of Information and Protection of Privacy Act, there is a lesser standard in terms of capacity, and it's clearer. It's a piece of legislation that the current advocacy office is quite familiar with and has worked with, whereas the Personal Health Information Protection Act doesn't necessarily, in my view, make a neat fit, because some of the information isn't about health; it's more general—what's going on in logs and that sort of thing in terms of the facilities.

There needs to be a broader provision that allows more open access by the advocate to this information. There is an obligation of confidentiality that is imposed on the advocate. They need to be able to have better access to information in order to more effectively advocate for children and youth.

**Mrs. Van Bommel:** Thank you.

**The Chair:** Thank you. The PC Party. Ms. MacLeod or Mrs. Elliott?

**Mrs. Elliott:** I'll comment. Thank you very much, Ms. Milne, for your presentation. It contains some really excellent, practical suggestions and recommendations with respect to this bill.

I just have one question, because you have addressed the issues with respect to your comments to Mrs. Van Bommel regarding access. I see that some of your materials indicate a recommendation to compel employees of organizations to co-operate and to be able to obtain copies of records. Would you think it would also be important to be able to compel witnesses to testify under oath?

**Ms. Milne:** I don't know the answer to that, because we've got a bill here that really isn't investigative in its function and its approach. If it moves more in that direction, then absolutely, that is what is necessary. As a previous speaker talked about, giving special powers to the advocate to conduct investigations in certain circumstances: In those circumstances, they will absolutely need those powers. Otherwise the investigative function would be fairly toothless and would not really produce the kind of result one would hope for. As you move towards a more investigative function, absolutely you need those powers.

**Mrs. Elliott:** Would you advocate the investigative function in this particular circumstance, or would you prefer the model that has been presented in the bill?

**Ms. Milne:** I think that, overall, the model presented in the bill makes the most sense in terms of what the advocate has been doing and continues to do at this point in time. However, I think, at the very least, there could be more of an investigative function, perhaps in special circumstances; that that would be of greater assistance to children and youth in the province, especially in light of the fact that there are limits to the Ombudsman's authority in certain areas. There certainly needs to be some body that has more of an investigative function with respect to children and youth. There have been too many child deaths. There have been too many situations of abuse. I've participated in too many coroners' inquests. There needs to be some better accountability at some level.

**Mrs. Elliott:** I completely agree with you. Thank you.

**The Chair:** Thank you, Ms. Milne, for your presentation.

**Mr. Zimmer:** On a point of order, Mr. Chair: I'm getting concerned about our timing. It's after 11. We're running 40 minutes behind. We're three presenters behind, and we're supposed to stop at 12 o'clock. What are we going to do, in fairness to the presenters? Somehow we've got to fit them all in.

**The Chair:** Ultimately, it's not my call; it's the committee's call. I've allowed a couple of extra minutes on some of the questions. If you want me to start cutting off some of the key presenters—and all of them, in my view, deserve a chance to make their presentation, and some of the questions here are very pertinent questions—I'll cut them off, if that's the will of the committee. I've just found that the questioning has been—

**Mr. Zimmer:** But there are people who have obligations at 12 o'clock and obligations at 5:30 tonight. If we go on at this rate, we're going to have people hanging around here for over an hour. It's not fair to the presenters or to the other obligations that we have.

**The Chair:** I'll take that point under advisement and try my very best to stick to the 15-minute time limit. Again, I don't want to be cutting off people when they're doing presentations, but I understand your point.

#### PRO BONO LAW ONTARIO, CHILD ADVOCACY PROJECT

**The Chair:** We'll move on, then, to the next presentation: Pro Bono Law Ontario, Child Advocacy Project: Wendy Miller and Greg Richards.

**Mr. Greg Richards:** Thank you very much for the opportunity to speak to you this morning about Bill 165. My name is Greg Richards. I'm here on behalf of the Advocates' Society, and with me is Wendy Miller of Pro Bono Law Ontario, who is the project coordinator of the Child Advocacy Project.

The Child Advocacy Project is a joint initiative of three parties: Pro Bono Law Ontario, the Advocates'

Society, and Justice for Children and Youth. You heard from Ms. Milne, just moments ago, of Justice for Children and Youth. Pro Bono Law Ontario is an organization which is dedicated to providing free legal services to individuals in Ontario of limited means. The Advocates' Society is a group of approximately 3,500 individuals, primarily lawyers, who are dedicated to access to justice and independent bar and judiciary.

The Child Advocacy Project was formed approximately five years ago. Its mandate is to provide free legal services regarding education matters to children and youth of limited means in the public education system. Over 260 cases have been handled since the project was initiated, and in excess of 190 volunteer lawyers have been involved.

The Child Advocacy Project is supportive of Bill 165. We commend the initiative to create an independent provincial advocate dealing with children and youth in this province. We do believe, however, that it could be improved, and we've made two recommendations, which are in our material. These are on page 5 of the written submission.

#### 1110

The first is that the Child Advocacy Project recommends the immediate inclusion of education within the jurisdiction of the provincial advocate through the regulations made under the act. Secondly, the Child Advocacy Project recommends that, following the passage of Bill 165, the new provincial advocate review the act and the current role of the children's lawyer, in order to identify the best manner in which to include education in the body of the act as an area of jurisdiction of the provincial advocate, and that the act then be amended to include education within the provincial advocate's jurisdiction.

In a nutshell, we see systemic issues in the cases we deal with—with the education system, local school boards—and it's our view and our respectful submission that the provincial advocate would be particularly suited to root out those systemic issues, report on them and deal with them.

Wendy Miller, who's on the ground daily administering the project, is here today to provide some background as to how we came to those two recommendations. She'll address you now.

**Ms. Wendy Miller:** Good morning, everyone. As Greg has mentioned, I oversee the Child Advocacy Project, which over the past five years has provided free legal advice and representation on over 260 education matters to parents and guardians of children and youth in Ontario's public school system. As you will see in our written submission, these families—many of whose children have disabilities or are vulnerable in other ways—sought legal assistance following clear violations of their children's education rights, and frequently after protracted confrontations with school administrators. Frustrated, feeling stonewalled and unable to access effective remedies within the school system, they turned to legal assistance to find justice at school.

In support of our position that education be included within the mandate of the provincial advocate, I will emphasize two points. First, the problem I've described is commonplace across Ontario, with many of the most egregious violations addressed by the Child Advocacy Project occurring in schools in small and rural communities. While significant media coverage has highlighted several systemic issues experienced by student populations in Ontario's cities, it is often the children in smaller communities who suffer the most. In these schools, resources are thinly stretched across large geographic areas and school boards often act with an air of impunity, impervious to challenges to their authority. A provincial advocate would be uniquely suited to address these inequities.

Second, education advocacy is especially urgent for young people involved with the child welfare system and is a logical extension of the role already contemplated for the new provincial advocate. Children in the care of children's aid societies face dramatically diminished life prospects due to the multiple ways that they are disadvantaged. Abuse, neglect, instability and fear often characterize their lives, and schools—one of the few environments available to them that should promote stability and achievement—are further stigmatizing these children by keeping them from enrolling, unlawfully excluding them, and making well known their intention not to educate them. The Child Advocacy Project hears regularly from foster parents and social workers that schools routinely discriminate against the children in their care. For example, one school board in eastern Ontario subjects all children in provincial care to a children's aid society protocol before enrolling them in their home school. Unlike their peers, these children must prove to school personnel that they are not a safety risk. Inclusion of education within the regulations of the new act would provide an immediate remedy for the many guardians and foster families currently fighting such blatantly discriminatory practices.

The Child Advocacy Project accepts cases on the basis of legal merit. Those assigned a lawyer concern fundamental issues of equal opportunity to education and are successfully resolved nearly 100% of the time. However, while we enjoy a healthy roster of volunteer lawyers—and to date over 190 have participated—our ability to place cases, or place them promptly enough to have a meaningful impact, depends on volunteer availability. Cases in rural communities are, not surprisingly, more difficult to place. For example, we were unable to locate a volunteer for a family in a hamlet in southwestern Ontario. After nearly two months, the family withdrew their request for assistance, choosing instead to move to another community in the hope of improving their son's educational experience.

As you will see in our submission, there exists a serious inequity in legal representation in the education context. Specifically, there are many legal resources available to school boards as compared to the few, outside of the Child Advocacy Project, that are available to

families, who too often must resolve complex legal matters with no way to ensure due process.

In my opinion, these facts underscore two critical points. Schools do acknowledge their wrongdoing when confronted with potential litigation. However, the safeguarding of education rights for Ontario's children and youth should not be left to the efforts of volunteer lawyers. Rather, it should be considered of equal importance to the security and well-being of young people as all other areas covered by this legislation and included in the new advocate's role.

I hope these arguments are persuasive, and I do thank you for your time.

**The Chair:** Thank you. There are about two minutes per party. We'll start with the Liberal Party.

**Mrs. Van Bommel:** Thank you for your presentation. There are a number of cases that you detail in your submission that certainly raise real concern. How are children made aware of the child advocate and the role the advocate could have? Are they made aware of that through the school system?

**Ms. Miller:** Of the Child Advocacy Project? Of our work?

**Mrs. Van Bommel:** Yes.

**Ms. Miller:** Not through the school system, generally speaking; lots of word of mouth, lots of outreach on our part. I do presentations across the province to make people aware of the service, as we do have a provincial mandate.

**Mrs. Van Bommel:** I notice that you talk about problems being particular to rural and small communities. I just wondered how you make sure that families know your service is available.

**Ms. Miller:** It's not easy. We do our best. We are located in downtown Toronto, but I would like to stress, as I've said, that most of the problems we see, the most egregious problems, happen outside of the areas where the bulk of lawyers are practising.

**The Chair:** We'll move on to the Conservative Party.

**Mrs. Elliott:** Ms. Miller and Mr. Richards, thank you very much. As a fellow lawyer I'm certainly familiar with the work you do with Pro Bono Law Ontario and the excellent outreach you've done both to members of our profession, to get them involved in doing this important work, as well as to the public.

I certainly agree with you that this kind of advocacy in schools shouldn't be left to volunteer lawyers to do. There should be someone looking out for the children in our schools. Certainly it's a very difficult area for parents to manoeuvre. I hear about this very often in my community office. I think that if we are going to the trouble of setting up this office, we should really extend it to the educational system.

I guess my only question would be, do you feel confident that the powers the child advocate will be given under this bill are sufficient to deal with the concerns of children and families within the school system?

**Mr. Richards:** First of all, we support the concept of an independent and strong child advocate. We recommended, in our second recommendation, that the pro-

vincial advocate review the act thoroughly in the context of the current jurisdiction of the children's lawyer and come forward with recommendations to enshrine in the act itself the most effective way of including education within the body of the act. We are very anxious that this act proceed. As an interim measure, we have recommendation 1, which is to have the power and jurisdiction over education included by regulation.

**Mrs. Elliott:** Do you think that any of the provisions in the act are an impediment to the ability of the child advocate to deal with certain situations in schools; for example, to obtain access to children's records, to get information from school board or school employees? Are you concerned by any of that, or do you think the provisions with respect to the powers and abilities to act are adequate as they presently stand?

**Mr. Richards:** Thank you for that question. Our immediate concern is that education isn't in the jurisdiction whatsoever. So we have a provincial advocate for children and youth that arguably has no jurisdiction to look at any education matter, no matter how egregious or how systemic the issue may be. This is what alarms us to the degree it does. In our respectful submission, that has to be included to make this provincial advocate the effective and tremendous agency that it could be.

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**The Chair:** Thank you. We'll move on to the NDP.

**Ms. Horwath:** I don't disagree with your perspective; I think, in fact, most people in the room would agree. My question is in terms of the process. Have you had an opportunity to speak to the minister or any of the ministry representatives in the drafting process of this bill to raise that issue and ask that it be included, the Minister of Children and Youth Services and/or the Minister of Education? Has any of that discussion or effort been made up until this point?

**Mr. Richards:** We haven't been engaged in a dialogue with the Ministry of Education. We're generally engaged in dialogue on a much more on-the-ground level, and that is individual cases, individual children and youth encountering difficulty in the school system.

**Ms. Horwath:** What about the Minister of Children and Youth Services? Have you talked to that minister and/or her staff about the need to include education in the scope of the advocate's work?

**Mr. Richards:** To date, we have not been engaged at that level. We've been engaged, as I say, on the ground. We welcome this opportunity to identify what we see is a significant gap in the current bill, of which in general we're very supportive of the concept. But we see education as an essential ingredient to be included in the jurisdiction of the provincial advocate.

**The Chair:** Thank you for your presentation.

ANNE MARSDEN

**The Chair:** We'll move on, then, to the next deputant, Anne Marsden. Good morning.

**Ms. Anne Marsden:** Good morning. You might be wondering why I have my mom and dad's—I call them

my mom and dad's—medals from World War II. I believe these give me the right of passage to be at this committee today, but I also think they give me the right of passage to be listened to at this committee today. The sacrifices my parents made, the same as many parents in this room, were very significant to allow us to have a justice policy committee that would listen to the people and make the appropriate changes that need to be made to properly protect our children.

When I've come before you in the past, I've come as audit manager for The Auditors, the Canadian Family Watchdog. I'm passing a piece of our letterhead around. Yesterday was the end of that season. I am no longer the audit manager. The Auditors, the Canadian Family Watchdog, is no longer in existence. The letterhead was formed to represent the family and the family watchdog position that we took on. The little dog was drawn by a young person. His name was Otis.

The first case that was brought to my attention, from 1971, was a Mr. Johannes Stevens. Our audits show that there was no justice for Mr. Stevens till the day he died. Otis was his dog. Otis died very recently. He'd been fed the food that many of our pets have been fed that have caused them to die from poisoning. I think that is very symbolic of the end of The Auditors, the Canadian Family Watchdog.

Not only do I come here because of the rite of passage my parents provided to me, I come here because of the credentials I have, which I believe allow me the privilege of being listened to. I'm respected at the national level for my ability to improve services. I'm respected at the international level to speak to people and give them the benefit of my experience and the audits that I've conducted in Ontario since 1990 that would allow me to make suggestions for changes, etc.

One of those areas is child protection, which I've been auditing for the last 15 years. When I say "auditing," I mean at every level of the child protection system, including the previous five children's ministers whose responsibility it was to properly advocate for our children.

I see the appointment of an advocate's office under Bill 165 as an indication of the dereliction of the duty of our children's minister. She is appointed to be our child advocate. That's the reason for her position as children's minister. If you look in your Child and Family Services Act, you will see that our children are given several rights, and it's the advocate's job to ensure that those rights are sustained for those children. One of those rights is the right to meet privately with the Ombudsman of Ontario. How many children know they have that right? I would suggest, very few, and I would suggest that the Ontario Ombudsman has not met privately with one of those children.

They also have the right to meet privately with their MPP and their MP. I know I have tried to have MPPs meet with these children. The children have personally phoned the MPP and asked them to come and meet privately with them, and all we got for our efforts was a letter from the ethics minister that this wasn't allowed,

even though we have it set out in our legislation that this is their right. These children are being denied their rights.

These audits also audited the child advocate office. We had a child who was locked in a garage in the middle of winter without a coat in a home where they'd been placed to protect their interests. The child kicked the door down—wouldn't you?—to get out. The police were brought and he was charged with mischief. The child advocate's office was called, an investigation was made, and although that home is not allowed to lock children in a room, there was no discipline. The child was convicted of mischief.

How can we possibly hold our heads up high in this world when we have legislation in place to protect children and we ignore it?

The minister, like the ministers before her, has had the opportunity to investigate when our audits clearly show that the children's best interests have not been protected by the courts, by the lawyers, by the CAS. We have presented our audits to ministers in the past and this one. This one was presented by MPP Andrea Horwath, asking the minister to undertake her responsibilities under section 67 of the Child and Family Services Act and undertake a review by a judge.

I have passed out today—hopefully you've received it—this particular audit, a "summary of audit" that shows two children—you should have this. It was forwarded to Mr. Dwyer. If not, I hope you will ensure that you do receive a copy and that you thoroughly review it. This shows a contradiction of the words "advocate" and "democracy." I think those of you who are familiar with Judgement at Nuremberg will understand that judges were on trial because they were following the rules of the day and the laws of the day, which were inhumane. Today, in Ontario, in Canada, we have judgments being made outside rules of law set in place to protect children, protect our elderly, protect all those and allow them to be treated with dignity. Those rules are not being followed.

In this country I live in, to which I came for a two-year working holiday and I'm still here 25-plus years since, it is known, just by looking at our Lieutenant Governor, that you can live at a garbage dump and become Lieutenant Governor of Ontario. In his book *Out of Muskoka*, he brought our attention to something else, though: that people rise to positions and put themselves in positions to feed an obsession for things which are outside the law. He talks about a teacher he came across who liked to inflict pain. He became a teacher, knowing full well that when he was discovered by his peers—one of them being James Bartleman—it would be hidden. Nobody would speak out. Nobody would do what they have to do: speak out for that person who is being treated the way they are.

#### 1130

I've heard a lot of comments on this bill. My position is: What is the point of having one more bill when the bills we have are not being respected by those who have been elected and put in positions? This committee has an opportunity to say to the minister, "Minister, we have an

audit here which shows that you have the strength of the law behind you to deal with the situations that are leaving our children destroyed.” Why not take up that opportunity?

I’m very willing to come before this committee, before the Attorney General, before the ministry itself, with my audited documents and answer any questions which show this. A lawyer has reviewed my audit and agrees with it. I’m here to answer any questions. You also have a copy of an audit at the other end of the scale, our elderly. I would ask that you read that and do what you believe it’s right to do. That’s why you’re here: to do what you believe it’s right to do. That’s what these medals were earned for. That’s why millions died.

A young lady from Burlington died; her funeral was on Monday. She died at 17 years of age—a very courageous young lady. The hundreds who attended her funeral heard her motto in life: It’s not how long you live; it’s how you live your life.

Every member of this justice policy committee has been given the opportunity to make a difference in Ontario and in Canada and do what is right. Say no: No more bills. Say yes: We have to ensure that our laws that have already been put in place to protect children are properly enforced before we try to pull more out of the woodwork. Let’s put our energies into ensuring that our children are properly protected and that we’re all doing the job we’re supposed to do.

If there are any of my children in care, let me give them the opportunity to have a private visit with me so I can personally advocate for them on what they’re going through. I call tell you that our audits show that the child advocate, the children’s lawyer, Justice for Children and all those organizations—maybe it’s not because of the want of doing the right, but they don’t, and more and more children are being caused pain, unnecessary pain, that we are allowing them to go through. Thank you.

**The Chair:** Thank you, Ms. Marsden. The 15 minutes for your presentation have been used up. We thank you for your time.

#### PSYCHIATRIC PATIENT ADVOCATE OFFICE

**The Chair:** The next presenter is the Psychiatric Patient Advocate Office: David Simpson, acting director. Good morning.

**Mr. David Simpson:** Good morning. Thank you, Mr. Chair and members of the committee. My name is David Simpson, and I’m the acting director of the Psychiatric Patient Advocate Office. I would like to thank the committee for its invitation and for the opportunity to comment on Bill 165.

The Psychiatric Patient Advocate Office is pleased that the government of Ontario is moving forward with their commitment to make the child advocate an independent officer of the Legislature.

Ontarians are at an important place in history, a place that requires them to critically examine their commitment

to independent advocacy, to protecting vulnerable populations and to enshrining in law the authority, function and responsibilities of an advocate who is empowered to protect the most vulnerable amongst us.

A progressive society has a responsibility and an ethical and moral obligation to protect those who cannot defend their own rights, who have no voice or who will be at risk because of their vulnerability. An advocate will be the voice of those who have no voice and will ensure that the voice of those who can speak for themselves will be heard. Advocacy done well improves both outcomes and quality of life: truly a benefit to the individual, their family and the community at large.

We want to applaud the government for moving forward in providing protection to vulnerable children and youth. However, we have some concerns with the proposed legislation and how it falls short in establishing the child advocate as a truly independent officer of the Legislature.

First, the definition of “advocacy” should be more broadly stated to ensure that it includes the ability of the advocate to pursue both legal and non-legal advocacy work. The definition should articulate the types of advocacy that will be provided to those who will seek service, including instructed and non-instructed advocacy, systemic advocacy, and supporting self-advocacy by children and youth. Legal advocacy work is essential if systemic change is to happen across the sector. There may be times when it’s appropriate for the advocate to seek intervener status in an inquest, in a case before a tribunal, such as the Human Rights Tribunal of Ontario, or before the Human Rights Commission as a way to promote systemic change. The advocate should not have their hands tied.

Second, the functions of the advocate as proposed in section 13 are too narrow and should be expanded to include providing advocacy and rights protection services to all children in Ontario seeking or receiving government services, not just those outlined in section 13. Let me repeat again that we must ensure that no child is left behind and therefore section 13 should be expanded to include providing advocacy and rights protection services to all children in Ontario seeking or receiving government services. By narrowing the functions of the advocate, some of the most vulnerable children will not be afforded the protection of the advocate. Parents and guardians should be able to utilize the services of the advocate, and the advocate, where appropriate, should be able to consider third party complaints.

Third, section 14 should be expanded to allow the child advocate the power to summon witnesses to provide testimony or to produce records. Although these powers would not be frequently utilized, they are necessary to ensure the co-operation of all parties. The advocate must have more than just moral authority or the power of persuasion. She must be given the authority to monitor and enforce compliance.

As an officer of the Legislature, the advocate should not have to “give reasonable notice,” as proposed in

subsection 14(4), to the person in charge of the place that has custody or control of the child or youth should they wish to communicate with them or enter the place where they are residing. Such limits on the advocate's ability to do his or her job are both restrictive and unreasonable. The advocate should have free, immediate and unimpeded access to children and youth.

Subsection 14(6) should also be amended to grant the power of reconsideration to the advocate for children and youth who wish to appeal a decision by the advocate not to investigate their complaints. Additionally, timelines should be defined for any appeal or reconsideration process adopted by this committee.

Section 15 should be removed from the proposed legislation, as it will tie the hands of the advocate as an independent officer of the legislature. The advocate should not be required by law to advise the minister or the appropriate administrative head of the affected entity of his or her intention to conduct a systemic review, nor should the advocate be required by law to consult with the minister or administrative head before forming a final opinion on the subject matter of a systemic review.

Subsection 19(4) also requires the advocate to deliver a copy of the annual report or any other report to the minister of any ministry to which it is relevant at least 30 days before delivering it to the Speaker. All of these provisions unduly fetter the ability of the advocate to act independently and are at odds with both the intent and the purpose of Bill 165.

#### 1140

We would also like to suggest that this bill be amended to include two other significant abilities. First, the advocate should have the authority to establish an advisory committee comprised of children, youth, families and service providers to offer advice and critique the work of the advocate. Second, the advocate should have the authority to establish any subcommittees or expert panels deemed necessary to address specific rights and entitlement issues faced by children and youth.

This bill is also silent on penalties for non-compliance for those who choose to violate the law or its intent. We submit that a section pertaining to penalties be added that is similar to section 27 of the Ombudsman Act. This section makes it an offence to wilfully obstruct, resist, make false statements or refuse to comply with a lawful requirement of the Ombudsman. These offences permit a fine of not more than \$500 or imprisonment for a term of not more than three months, or both. Without establishing penalties for non-compliance, children and youth may well be subject to continued abuse, neglect or rights violations, despite the work of the advocate.

Before concluding, I would like to say a few words about history and the roads less travelled.

In the mid-1990s, Ontario started down this road we are on today with the formation of the Ontario Advocacy Commission, which was, sadly, disbanded in 1996, before it could truly begin its work. We now have an opportunity to begin the broader discussion again. Perhaps the time has come to revisit the role of government in protecting its vulnerable citizens wherever they are.

In conclusion, the people of Ontario, through their elected representatives, must decide what type of advocacy they want for vulnerable people. Today our job is to create a mechanism to protect Ontario's vulnerable children and youth. Perhaps tomorrow we will be looking once more to developing a strategy for protecting all vulnerable populations.

Thank you, Mr. Chair.

**The Chair:** Thank you, Mr. Simpson. We have about one minute per party. We'll start with the PC Party this time.

**Mrs. Elliott:** Thank you very much for your comments, Mr. Simpson. I totally agree with you that to have a truly meaningful child advocate, the abilities need to be expanded beyond the scope of what's presently provided for.

In the interests of time, I just had one question with respect to expanding the definition of "advocacy" to legal and non-legal functions. My question is how that interacts with the Office of the Children's Lawyer and whether you've examined that as to the roles that they would play if the children's advocate were to expand into legal advocacy per se.

**Mr. Simpson:** When I was talking legal advocacy there, I was thinking more about doing work around legislation, policy, intervening in inquests or before tribunals, to really put forward the position of all children and youth in Ontario, not just that one particular case. It's not clear to me from this bill if in fact those things will be allowed under Bill 165. So I guess we're saying that there's a role for both legal and non-legal advocacy and that the child advocate's hands should not be tied; they should be able to use the tools necessary to do the job that they need to do.

**Mrs. Elliott:** Thank you. I was just wondering, Mr. Chair, if it would be possible for Mr. Fenson, if he wouldn't mind, to give us some information with respect to the work that is presently done by the Office of the Children's Lawyer so that we can sort of take a look at what could be expanded into in terms of legal advocacy by the child advocate.

**The Chair:** Thank you, Mrs. Elliott. We'll move on to the NDP.

**Ms. Horwath:** I too appreciate your comments. I think you've made some excellent suggestions on improvements to the bill. I'm glad you raised the issue of the 30 days that ministers have to hold onto a report before it gets released. In my first attempt at debating this in second reading, I called it the government spin cycle, the 30 days that they have between the time they have the report and it becomes public. I think it's inappropriate. No other officer of the Legislature has that requirement, that 30 days be given to any ministry where there's a report that's about to be brought forward to the public. So I don't think it belongs here and I'm glad you've indicated that in writing. I want to thank you for that, because I think it's an important issue. We need to make sure that there is true independence of the child advocate and that it's not reduced by this 30-day opportunity for

the government to alter or in some way change the perception of what's being presented in an independent report.

Mr. Chair, on the very last page of the presentation there is a remark about the office of the child advocate having the lowest budget per capita in Canada. Can I just ask that Mr. Fenson as well give us the comparator of the per capita expenditures across the country in child advocate offices? I'd appreciate that.

**The Chair:** Okay, thank you.

We'll move on to the Liberal Party. Any questions?

**Mrs. Van Bommel:** Thank you very much for your presentation. In your recommendations you talk about permitting parents and guardians to utilize the services of the advocate. Could you expand quickly on what you mean by that?

**Mr. Simpson:** Sure. You'll notice that we also recommended the ability to take third party complaints. You may have children and youth in a group home setting where an older child sees that a younger child is being abused or that something is happening that's not quite right. There is no mechanism in this bill to say that the child advocate can in fact accept a third party complaint and, likewise, if you were to follow our recommendation, that all children in Ontario seeking or receiving government services could utilize the services of the child advocate office. That could mean that some very young children may need a parent or guardian to be their voice to make that initial contact with the child advocate's office so that an investigation or a review could be conducted.

**The Chair:** Thank you, Mr. Simpson, for your presentation today.

CHILDREN'S MENTAL HEALTH ONTARIO  
OFFICE OF CHILD AND  
FAMILY SERVICE ADVOCACY

**The Chair:** We will move on to our next presenters, Children's Mental Health Ontario and the Office of Child and Family Service Advocacy: Cathy Dyer and Irwin Elman.

**Ms. Cathy Dyer:** Good morning.

**The Chair:** Good morning.

**Ms. Dyer:** Thank you for giving us the time to speak with you today.

I guess I will begin with locating myself as to why it is that I wanted to speak to the committee. I grew up in foster care. I became a ward of the children's aid in Guelph when I was 14, and I spent the rest of my teenage years and my young adult life trying to do advocacy and organizing of youth in care. One of the things that I got involved in was working with Judy Finlay at the advocacy office, and I wanted to share with you just a brief story and highlight why it is so important that young people participate in the work of the advocacy office, why it's important that the advocacy office works with youth and not just for youth.

The story that is most impactful about my experience working on their youth advisory committee was at the inquest into the death of William Edgar, a young man who died in a group home in Peterborough. If memory serves me right, the advocacy office was able to get intervenor status, and the youth advisory committee worked together to sit through the inquest and listen to the testimony. Not only did a young person testify, but we provided recommendations to the jury to make improvements so that a death like this wouldn't occur again.

It was really impactful for me to participate in that experience because I felt that my time in foster care wasn't just a deficit; it wasn't something that was going to decrease my ability to have a successful life; it was a real expertise and it was valuable, and I could use that to help other young people and other professionals understand the system as it is experienced by young people. I also felt that my experience in foster care was positive: I had two loving foster homes. But that's the luck of the draw, really, and I often think about what my life would be like if I had lived in a different context, in a group home that was underfunded and under-resourced and overstressed. I really think it's important to have young people who have this experiential expertise help in providing the insight that the professionals need into the system and in providing that kind of context.

So Irwin and I have put together some recommendations, but he's going to speak a little bit before we go into those recommendations.

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**Mr. Irwin Elman:** Thank you for having me here, and thank you to Anne and Kevin for the work they did in helping some young people present.

I have been the manager of the Pape Adolescent Resource Centre in Toronto, which is a Catholic children's aid and Metro children's aid program helping young people live on their own. Probably, over the last 23 years or so, I've met and worked with 5,000 to 8,000 young people in and from child welfare care and various other systems.

It's an honour to be presenting with my colleague Cathy, whom I've known for many years, and it has been an honour to work with the Office of Child and Family Service Advocacy, where I'm seconded now, to try to help find ways of involving young people in all aspects of the office's work, not just on a piecemeal basis.

Some of my remarks are going to be a little less sober than maybe what is in the written submission we've made, but it's because it's really important. People have talked about the right to be heard—article 12 in the UN convention. My understanding is that it's actually the right to participate, and there's a distinction between being heard and participating. I think it's really crucial for this committee to understand that it's not just about being heard; it's about having young people participate in their own lives, in their own advocacy. It's something that's missing in the bill—certainly something that's missing in these consultations and hearings.

Youth in care in any of the systems we're talking about have gotten to those systems often through a lack of control over their lives. Nobody asks to be abused or neglected. It's not something children choose. And then, once they're in the system, the young people live in a system—in all the systems we're talking about—with a lack of control. They move from worker to worker, home to home. Certainly in custody there's not a lot of control in any of the systems. It's not surprising that outcomes for young people in care are not very good, given that.

However, what I want to say is that none of the 5,000 to 8,000 young people I've met are voiceless—none. It's not true to say that we have to speak for young people. We have to give young people the opportunity and support to speak for themselves. I see you nodding, Lisa. I know that as a parent, you know that. I know that as a community worker, Andrea, you know that. There's a health care professional here. There's enough information about social inclusion now—it's a buzzword—that shows it affects health. People in health know that. Educators were here. I know Rosario used to be a teacher. He knows that in education; all the theory knows that. Yet it's absent from this bill about how this advocacy office is going to involve the people who need to be involved the most because it's crucial in terms of them regaining control over their lives. Advocacy is a way of regaining control. The advocate's office cannot advocate without young people.

Somebody said that there has been meaningful participation of children and youth in the drafting of this bill. There hasn't been; let's not pretend. I don't think that means we go backwards, but I think we start from there. So knowing that and understanding that, what do you do about it? We've made some recommendations about how to strengthen the bill so that it doesn't happen again. The exemplar of how to involve young people in their own lives, in their own advocacy, becomes the advocacy office. It has to be. If it's not the advocacy office, there will be no other group or organization for young people of Ontario, adults of Ontario, for this Legislature to look toward how you do this.

One of them has to be in a purpose statement about the intent of the office to be judged, at least to a certain extent, and one piece of judgment about how it involves young people. It should be part of every report, and that's another recommendation. Every report the office produces should indicate how young people were involved. Whether it's the annual report or research or policy suggestions, every report should indicate how young people were involved in the development of those policies. The office should try to hold itself to a standard of being an exemplar in that sense.

I'm going to stop there. I don't know if there are questions. I just want to say how important it is for you to consider how to take some of the comments Cathy and I have made and make them come to life in the bill, because if you don't, that office will be severely hampered. It has been hampered—I'm going to say this—by the start you've given it, by how it has been created, by

how young people have been consulted. You've missed an opportunity, but you need not make that the legacy of your bill. You can change that now so that, moving forward, the office has a chance to be something distinct that exists in other parts of the world but not here in Ontario.

**The Chair:** Thank you. We have about one minute per party. We'll start with Ms. Horwath.

**Ms. Horwath:** Thanks, Irwin. You talked about your written submission. I don't have it. We're going to get it? Okay. That's good. That's important.

I want to say that I appreciate the work you do. You mentioned my own experience as a community development worker, and I've talked to you about that as well. I think it's so, so important that the comments you've raised were raised. A lot of the time we go about our business here in a very structured, very strict kind of way. During the process even of setting up these committee hearings, I tried many times to get people off the normal, adult-focused legislative process to get some other kinds of voices at the table in a way that is most facilitative for them. Obviously, that wasn't successful. But I agree with you: That doesn't mean we have to stop here. That means we need to recommit, and the way we recommit is by building those commitments into the bill.

I thank you for that. I look forward to seeing some actual amendments that we could probably use to make that happen. Thank you for your good work.

**The Chair:** The Liberal Party: Are there any questions?

**Mrs. Van Bommel:** Thank you very much. It's certainly a lot to think about. At this point we don't have any real questions; we're just taking it all in. Thank you very much.

**The Chair:** We'll go to the PC Party.

**Ms. MacLeod:** It's a pleasure to see you again, Irwin and Cathy, and thanks for presenting here today. I want to congratulate you for being such a positive example here today and telling the committee a little about your experience and how positive the child advocate has been in your position.

This is a bit of a full circle this morning, because we started off with Les Horne and Judy Finlay and we were talking about how—at least I was talking about it—around this table we could make this a more child-friendly and youth-friendly process, because to date it has not been. I really appreciated your mentioning that we need a preamble about the intent of the office, and also the inclusion of children and youth, whether it's through reports or at various stages. I wonder if either or both of you could just expound upon how you feel we could include youth in this process, from today moving forward, as we look toward putting this bill through the Legislature, passing it, and how we continue to encourage this to be a process for youth, by youth.

**The Chair:** Thank you for that comment and thank you for your presentation this morning.

## MICHAEL COCHRANE

**The Chair:** We move on to our next presenter, Michael Cochrane.

**Mr. Michael Cochrane:** Thank you. My presentation is being handed out right now; while it's being passed around, I'll tell you why I've come. I'm a lawyer in private practice in Toronto. I do civil litigation, with an emphasis on family law, very high-conflict family law, estates, and some public policy.

Over the last few years, I've been involved in dealing with some of the human wreckage that comes about from perhaps not having something like a children's advocate in place. In particular, I was involved with several hundred students who went to the schools for the deaf in Ontario. I don't know if any of you are aware of it, but the Ontario government paid out about \$8 million in compensation to deaf students who were physically and sexually abused in the schools for the deaf. I was also involved with the claims against the Robarts School in London, Ontario—again, deaf children sexually abused by teachers.

Another project I was involved with that seems completely unrelated to those things, but you'll see in a moment why it is related—I was the chair of the task force in Ontario that designed the Environmental Bill of Rights. One of the things that was built into the Environmental Bill of Rights was the Environmental Commissioner's office. I would urge you to look to the Environmental Commissioner's office as a model for the way in which the children's advocate is structured. The Environmental Commissioner is the linchpin for the way in which the Environmental Bill of Rights is implemented in Ontario. That office—Gord Miller, right now—watches over the way in which environmental rights are protected and has acted very much like a pitchfork in the rear ends of government and other people who would abuse Ontario's natural environment.

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I mention those only because, if it were up to me, the children's advocate office would be a part of a children's bill of rights for Ontario and the office would be watching over the implementation of that bill of rights. But on its own, it's terrific that an advocate's office is going to be created.

On page 2 of my presentation, I've set out some observations that I think might improve this office. You've already heard repeatedly about the need to make this more than simply an advocacy job—to let this become an investigative body. The recommendations I've set out are:

(1) Give this person the tools to do the job. Let them investigate. Give them the ability to enter premises and facilities, if needed in an emergency.

(2) Give them the right to access documents.

(3) Give them the right to have direct contact with young people, which you've already heard urged by others.

(4) Specifically authorize this office to be proactive. They should not be complaint-driven like an Ombuds-

man, where they sit back and wait for people to come with problems. They should go out and be proactively investigative.

(5) Be explicit in the powers this person has at their disposal, because I'll tell you, in many cases the advocate is going to be up against institutions, and institutions have lawyers. The lawyers will say that anything that's vague means the children's advocate can't do the job. So if you have a chance to be specific in the authority you give to this person, do so. That's what we did with the Environmental Commissioner's office: We made the authority that that office had quite specific.

(6) If the advocate is supposed to look into issues around children with special needs or with education—that's something else that was spoken to this morning—then I would say that. Don't let anybody give the advocate a hard time about it not being referenced in the legislation. Be over-inclusive, if anything. I would love to have somebody say someday, "Gee, the children's advocate went too far," "Gee, they were too aggressive in investigating something," or "Boy, they really protected too many children." I don't think you're going to find that. I think you're going to find that they have their work cut out for them. But there's no reason to not be over-inclusive in the responsibilities you give to them.

(7) Authorize this office to make special reports to the Legislature, the same way the Environmental Commissioner does on emergency issues that come up.

(8) Make sure you give this person an adequate budget. The Environmental Commissioner's office right now works with a budget of about \$2 million a year. That is a bargain in this province for the work that office does. I would say, you could expect to be doubling that budget for the children's advocate.

(9) I would also go so far as to give the children's advocate what I would call an emergency remediation fund. The example I mentioned in item 9 on page 3 is that when the Cree First Nations up near James Bay had their water contaminated and children up there suffered from some pretty horrific infections, rashes and, in some cases hepatitis A, it was the impact on the children that got everyone's attention. If that had happened in a southern Ontario city, this would have never been tolerated for a split second. But because it was up north, it took a long time for people to respond, and I think the response came because of pictures of children in the news with rashes and sores all over their bodies. They spent \$16 million to move that community over the last year and a bit. That's the kind of thing that I hope the children's advocate would be rolling up their sleeves to get involved in. When something nightmarish like that occurs, the advocate is on the spot and maybe has some money available to them to actually do some on-the-spot remediation on a temporary basis.

(10) This is the most important point I want to make. Last week, Cathy Crowe, who's a street nurse in Toronto, released her book *Dying For a Home*. It's about homelessness, primarily in Toronto. I hope it doesn't come as a surprise to you that there are about 3,700 people in

Toronto—men, women and children—who use the emergency shelter system, which includes cots, bunks and motel rooms. There are children in that system, and I would hope that the children's advocate would, in an investigative capacity, be going out and looking at that terrible tragedy and also recognize that the lack of affordable housing is one of the main reasons Ontario children go into the children's aid system. I wish Cathy Crowe herself could be here to tell you, but I would urge you to read her book *Dying for a Home*.

(11) On some other related points about the family law system, it's pretty much in a crisis mode right now in Ontario. It's a mess. Everything is totally delayed. The level of acrimony is awful. I think the part of it that I find most frustrating is that we see families blowing the equity in their homes, burning up their RSPs, cashing them in, to pay lawyers to fight in the justice system. The CAS is often dragged into cases. I would be shocked if the children's advocate didn't have to do an investigation of the family law justice system in this province, because it is certainly not helping families and it's certainly not helping children. We see it every day.

(12) In this point, I mention the Office of the Children's Lawyer. Again, as with the Environmental Commissioner's office, what a bargain we get for the work that those people do, just baling all the time for children in the justice system. That office needs more funding. If ideally some day it was pulled under the auspices of a children's advocate and they had the representation function for children, that would probably be fantastic. They are completely under-resourced right now.

(13) I mention that I think consideration should still be given to the idea of a children's bill of rights for the province. Right now, citizens in this province are better equipped to act to protect the environment than they are to protect children. I would urge you to take a look at the Environmental Bill of Rights, where citizens can trigger investigations; they can ask the Environmental Commissioner to launch a probe into a ministry to get the ministry working on something.

(14) The last point: I read some submissions that were made by Defence for Children International—Canada, and I support all their recommendations, in particular the recommendations that would turn this office into something more investigative rather than a report-writer. The last thing we need in Ontario is somebody to just write reports. We've got lots of those. We need somebody to actually go out there and be a pitchfork in someone's behind for the benefit of children.

Those are my comments. Thank you.

**The Chair:** Thank you, Mr. Cochrane. We have about a minute and a half per party. We'll start with the Liberal Party, if they have any questions or comments.

**Mrs. Van Bommel:** Thank you very much for your presentation—certainly a number of issues. Your perspective on the idea of the commissioner, like we have an Environmental Commissioner, is very valuable. Thank you very much.

**The Chair:** We'll go to the Progressive Conservatives.

**Ms. MacLeod:** I just want to say that that was a brilliant presentation. I thought it was excellent, and I think I speak for all my colleagues. You brought so many points to the table today, and I really want to congratulate you for that. You've done an excellent job of going through the legislation and talking to us about the bill before us this morning. I look forward to speaking to you further on some of these issues.

**The Chair:** Ms. Horwath.

**Ms. Horwath:** I too want to thank you, Mr. Cochrane. I have one question. In item 6, you say, "Be explicit and over-inclusive." Did you want to expand upon that a bit?

**Mr. Cochrane:** I noticed in the submission from that organization I mentioned in the last point that there was some debate about whether children with special needs would benefit from investigations by this children's advocate. I didn't see any reference to it in the mandate. I used to work for the Ministry of the Attorney General as a policy adviser. I did the Family Law Act in Ontario. I know what it's like, saying, "We'll just put it in the regulations." Don't do that. Put it right in the act. If it's special-needs, put it in the act. If it's education, put it in the act. Then someone's going to do something. Regulations just get lost.

**The Chair:** Thank you for your presentation, Mr. Cochrane.

#### TORONTO PARENT NETWORK

**The Chair:** Our final presentation this morning is the Toronto Parent Network: Cassie Bell. Thank you for your patience.

**Ms. Cassie Bell:** I'm not going to keep you long. My parking meter is about to expire, and I'll get a ticket. I'll hand this to you at the end, but I only have one copy.

It's a pleasure to be here. I would like to start by saying: Please do everything Mr. Cochrane advised you to do, because I really thought that was brilliant. He nailed everything on the head. I also thought his advocacy around the children's bill of rights—from what I've heard very recently, from the previous deputations, if you really want to get children involved, that's your way. You could actually have children and youth develop a children's bill of rights. I think that's brilliant. It also touches on that recommendation that you had to get children not just heard but participating, which is so important.

**1210**

I'm with the Toronto Parent Network. We are literally a network—e-mail and phone and contact of about 1,500 to 2,000 parents across the city of Toronto. We've been active for nearly 10 years. It is volunteer.

I'm here today to speak to this act. I strongly, strongly support it. I would like to remind you of somebody whom I never forget. His name is Tyler. He was 18 years old when he took his own life. Tyler was a student in the public school system. Tyler was in an alternative program, and he had a youth counsellor. When the previous government was in power there was a great struggle over

education and there were many cuts made at the Toronto board, one of which was youth counsellors, never to be reinstated. Tyler lost his youth counsellor in April. He was severely troubled and no doubt suffering mental health issues, which one in five of our children and youth in Ontario today suffer—often undiagnosed, I might add. The cut was made reprehensibly and unprofessionally. The youth counsellor lost his job. Tyler lost his advocate. Although I can't draw a direct link, I did attend that funeral, and I will never forget it. So I ask you not to forget Tyler when you are enacting this bill. Why? Because this office has an opportunity to expand. I know public officials hate to hear, "Please expand your mandate," but that's exactly what I'm recommending. I think, as Mr. Cochrane recommended, that you should look at the jurisdiction of education, including special needs and ESL and everything that education encompasses. Our ESL children and youth have no voice because—guess what?—they don't speak the language. Special-needs young children and youth are, by definition, in need of assistance in finding their way, and it often is a labyrinth.

An End to Violence Against Children, the 2006 UN report, recommends exactly what you are hoping to achieve. Government should consider establishing a commissioner's officer for children's rights complying with the Paris Principles and working closely with other agencies concerned with public health and child protection issues. These independent institutions should have a clear mandate to monitor children's rights at a national, regional and local level. Where appropriate, they should have the competence to receive and investigate complaints, which speaks to the proactivity that Mr. Cochrane touched on, about violation of children's rights from the public, including from children themselves. If you do this, this will be a huge step forward. This is something that Ontario, in fact Canada, needs.

The advocate's office must, in my opinion:

—Be established beyond political interference. In other words, once you've carefully and thoroughly investigated and established the commissioner's office, you step back.

—Be an independent office accountable to the citizens of Ontario through the Legislature and not through a ministry.

—Provide annual reports. I think that's every bit as important as being proactive because it will highlight systemic issues, which are publicly available and highlighted.

—Be provided with sufficient resources, financial and human, to increase the awareness, the profile, and the accessibility of the office. In other words, if people don't know you're there, then you're not very efficient.

—Allow for comprehensive consultations and investigative processes to occur—that is, in the building of the office—and that's very important. They should be proactive. They should be those pitchforks.

—Expand its mandate to include children and youth within all public institutions, including public schools, in order to provide universal protection and voice.

—Finally, always remember Tyler and the thousands of other children and youth whose voices are not heard within our public institutions in spite of existing policies and processes.

Thank you.

**The Chair:** Thank you, Ms. Bell. We'll see if there are any questions, starting with the PC Party.

**Ms. MacLeod:** I appreciated your deputation. I think the only thing that needs to be reiterated again and again for the government is that we need to expand the mandate. You succinctly did that, so thank you.

**The Chair:** Thank you. Ms. Horwath?

**Ms. Horwath:** I don't have any questions either—I know you're anxious about your car—but I want to say thank you. Parent activism is so extremely important in getting things right. Certainly, having the voices of children at the table is extremely important as well, but parents become the pitchforks as well, so thank you for being a pitchfork.

**The Chair:** Thank you. Finally, Ms. Van Bommel.

**Mrs. Van Bommel:** I see you sitting on the edge of your chair, Ms. Bell, ready to get out there to your vehicle. I thank you very much for reinforcing the previous presenter's points as well. Thank you.

**The Chair:** Thank you again, Ms. Bell.

Members of committee, we now stand recessed until after routine proceedings or 3:30, whichever comes first. Please take your materials with you, because we will be meeting in room 151 downstairs, so don't leave anything behind. We're recessed until that time. Thank you.

*The committee recessed from 1217 to 1602 and resumed in room 151.*

#### ASL SERVICES FOR DEAF CHILDREN IN ONTARIO

**The Chair:** I'd like to call back to order the standing committee on justice policy and continue our deputations from this morning.

Our next deputation listed is Chris Kenopic, ASL Services for Deaf Children in Ontario. Good afternoon, and welcome.

**Mr. Chris Kenopic (Interpretation):** My understanding is that I have up to 20 minutes, which includes questions and answers. Is that correct?

**The Chair:** It's 15 minutes.

**Mr. Kenopic (Interpretation):** Okay. Who will give me the signal when there are five minutes left?

**The Chair:** If you want to, I can give you that signal.

**Mr. Kenopic (Interpretation):** Sure. If you could do that, that would help me greatly. Thank you.

**The Chair:** When there are five minutes left? Sure, okay.

**Mr. Kenopic (Interpretation):** First of all, I'd like to thank you for giving me this opportunity to address Bill 165. I grew up as a deaf individual, and I have a son who's four years old, who is also deaf. He goes to a YMCA program at a deaf school. Educational issues are something near and dear to my heart, and I've been

advocating for those issues for several years. But it gets to a point sometimes where it can be draining and the feeling to give up enters one's being. The fight has to continue, and one cannot give up. When my son was born and we found that he was deaf, I had to go back to square one after having decided I wasn't going to fight the cause anymore, so here I am again, fighting the cause.

I went to a school for the deaf in the 1970s and 1980s. At that time, education was in a sad state of affairs. Upon graduation, I found that my reading level was at the grade 4 level. Here I was, a bright student, but I had missed out on a good education. I went to Gallaudet University and felt overwhelmed. The reading and writing that were required seemed to be above my head, and I feared that I might fail. But I had both teachers who were deaf and teachers who were hearing, who encouraged me to improve my literacy, to read and to write. That helped me immensely. If it hadn't been for them, I don't think I would be here today in the capacity that I am, so heartfelt thanks to them.

Unfortunately, there are many issues dealing with students who are deaf and hard of hearing, many barriers to the educational system, to acquiring a good education. Some of these barriers include teachers of the deaf who are not skilled in American Sign Language, educational assistants who do not have the required skills to deal with children who are deaf. The teachers themselves don't fully understand ASL, American Sign Language, as a language and how to use it in the educational setting. Many individuals see that ASL is just used for communication and some feel that it's not even a true language, whereas the inverse is the reality.

Now, I've been involved for many years on educational committees under the NDP, the Liberals and the Conservatives, and I've worked on many committees involved with these issues so I come here well versed. But I must say that through these many years, nothing has improved greatly, and there needs to be improvement.

I've also been involved with students who have laid human rights complaints about access in the educational setting. I've also represented many parents who became frustrated with the school boards and with the process in school boards and schools for the deaf. They wanted a better education for their child, and they wanted greater accommodations and access—many issues that led to barriers that needed to be resolved and still do.

The Office of Child and Family Service Advocacy: I have worked with them many years, and I'm glad to see Mr. Anselmo Desousa here from that office. I have worked with him over the years in a variety of capacities that have included parents and students alike. What I've seen is that the staff from the advocacy office have good hearts and well-meant intentions, and they try to do what they need to do but their hands are tied. There are weaknesses that prevent them from doing what they need to do for the betterment of the child. Judy Finlay I know quite well; we have corresponded over the years on these issues.

You may recall that Bill 4 was passed a while ago, in 1989. Since then, not one government regulation has been introduced, either under the NDP or the provincial Conservatives or the Liberal government. It has been several years. Again, the government has been reminded and reminded and reminded. These regulations would break down the barriers that are faced currently by students who are deaf and hard of hearing. The Office of Child and Family Service Advocacy is trying to move things along. Provincial schools for the deaf and school boards always raise the issue, "Well, it's a capacity issue," but I don't understand really what the issue is there. After 18 years, we haven't been able to come up with one regulation or a list of regulations? We have the resources; we have the advocacy office. There needs to be something in place that will enforce these regulations to be enacted. We need the regulations to move things along.

Recommendations for Bill 165: Bill 165 needs to identify the students for whom they advocate. Bill 165 doesn't clearly identify who those students are. Bill 165 should state clearly how it will advocate for deaf and hard-of-hearing students within the provincial schools for the deaf and school boards across Ontario. It should include clear protocols on advocacy for students and mechanisms for addressing student complaints.

#### 1610

The Office of Child and Family Service Advocacy should be involved and should be looking at what the parents' and students' concerns and issues are to help strengthen the educational system for this target group.

It's also important to identify cultural needs and linguistic needs, language needs, American Sign Language and langue des signes québécoise and provide accommodations using these languages. That should be enshrined in Bill 165 so that it does become a responsibility, and thereby the school boards and provincial schools for the deaf should be held accountable for addressing these concerns.

Also, at the start of every school year, children in provincial schools and school boards should be given information that makes them aware of the advocacy office and of their rights. Many students do not know what their rights are, do not know of the Office of Child and Family Service Advocacy.

This morning I was at another meeting at one of the provincial schools. Two principals were in attendance. I asked them about Bill 165, and I have to say that they didn't really know much about this bill. I said that they should really be aware that I was coming to make a representation. I've sat in committees. This should be nothing new to them. Provincial directors and administrators are not necessarily in the loop, and it's up to other people to inform them. There needs to be someone who shares the information. There needs to be communication amongst all levels that are in the school system, and information needs to be shared, for sure.

A deaf child who is placed in a foster home or in a medical setting faces barriers. There should be protocols

established that ensure complete accessibility. A few years ago, my niece went to a school for the deaf. There were some issues that occurred and she was placed in a special setting. Her emotional behaviour worsened because accommodations were not in place. Her ability to communicate was limited. They said, "Sorry, we can only provide an interpreter between this hour and this hour." It was quite limited. I propose that interpreters should be provided 24 hours a day continuously until they're placed in an appropriate setting. The Office of Child and Family Service Advocacy and staff from that office, such as Mr. Desousa, are not able to do much because, as I said, their hands are tied.

I'd like to see the government deal with several departments and bills looking at these issues to ensure that there is an appropriate process that deals with all of these issues that I've dealt with. There needs to be follow-up and measurement to ensure that these things are happening.

Before I close, I would like to thank the committee. I just want to be very clear that I did not come here to convince or influence anyone. I'm not here to change anything. That's not my role. I'm here to give you a perspective on the issues that are faced, day in and day out over the years, by the people I've been talking about.

I feel that the advocacy office needs to have greater strength. The opportunity is before you. Keep the status quo or make the changes afforded under Bill 165. We need to give more power and more clout to the Office of Child and Family Service Advocacy so that they can go and ensure that those individuals are afforded the rights that they're entitled to. I thank you.

**The Chair:** Thank you, Mr. Kenopic. I was going to interrupt—you were winding up, though—when there was five minutes left. We're down to about three minutes left, so that leaves about one minute per party to ask a question. We'll start with the Progressive Conservatives.

**Ms. MacLeod:** Thank you very much, Mr. Kenopic. It was a great presentation. I truly appreciate your attending here today. I'm a little disappointed to have learned that you were speaking with one of your committees that will be affected by this piece of legislation today and they did not know anything about it. I think that, unfortunately, is where we're at today, that we did not communicate effectively as a committee and as a Legislative Assembly to the people who are going to be affected by this bill.

Earlier today we heard from numerous deputants who thought we should be more explicit in setting out the powers of the children's advocate, which I believe is what you're advocating here today—

**Mr. Kenopic (Interpretation):** That's correct.

**Ms. MacLeod:** —that we should be very clear with people. We need to enshrine this in the legislation. Whether it's children who are deaf or blind or if they're incarcerated or what have you, that has to be there. I wanted to thank you for reiterating that today and for taking the time to be with us. So thank you very much.

**Mr. Kenopic (Interpretation):** You're welcome.

**The Chair:** We'll move on to the NDP, Andrea Horwath.

**Ms. Horwath:** Thank you, Mr. Kenopic. It's important that you're here to talk to us about many of your concerns. It's interesting, though. Unlike the previous member, I actually think that the responsibility for ensuring that there is fulsome consultation prior to our even having draft legislation rests with the minister, and I think she failed miserably on many fronts—the front of your community as well as many, many fronts. I think that's a sad state of affairs. Nonetheless, we're working with the bill that's in front of us, and we need to move ahead.

I notice that you mention particularly your concern that regulations in the past that you thought should have eventually been developed in other legislation have never come to pass. Certainly you must know that the education piece is not in this bill as it is before us but is being talked about as being added in as a regulation in terms of putting education as part of the scope of the bill. I'm just wondering if you have any comment on that or if I'm correct in assuming that that's why you raised that issue in your remarks.

**Mr. Kenopic (Interpretation):** My point is that if we have regulations for the bill, then that will address the needs of deaf children in the school setting. Right now, there are no regulations that require educators to have skill in American Sign Language when teaching children who are deaf or hard of hearing; there are no regulations yet. Also, the qualifications of interpreters—some of the school boards have "interpreters" they've hired and they're not really qualified, especially to work in an educational setting, but they're hiring these people as interpreters. If regulations were in place, then the advocacy office could pursue that and deal with it further, but they need regulations in place. So if those regulations were in place, they could better represent the students they're advocating for.

**Ms. Horwath:** Thank you.

**The Chair:** We'll move on to the Liberals. Mrs. Van Bommel.

**Mrs. Van Bommel:** Thank you very much for your presentation. You talked about deaf children going into foster homes and foster care. Is there any requirement for accommodating deaf children when they go into these settings? Are the parents required to know sign language? How do these children get their communications across?

**Mr. Kenopic (Interpretation):** You raise a very good point. There really are no expectations. If a deaf child is placed in a foster home, the foster parents can't learn to communicate right off the bat, obviously. There need to be protocols in place that when a deaf child needs to be placed in an environment, an environment where sign language is used should be looked at. But sometimes it's not even looked at and they're just placed in a given foster program. If, however, there is not a foster home or foster placement where sign language can be used, then an interpreter needs to be brought into the foster home

where the foster parents don't know sign language. That interpreter would help facilitate communication. So my point is that they need to be placed in a proper setting with the proper accommodations.

**The Chair:** Thank you, Mr. Kenopic, for your presentation today.

1620

SANDRA TANNY

**The Chair:** We will move on now to our next presentation: Sandra Tanny. Good afternoon, and welcome to committee.

**Ms. Sandra Tanny:** Thank you for giving me the opportunity—sorry. Okay. Now?

**The Chair:** Everything that you're saying is being recorded by Hansard, so they want to pick up every word.

**Ms. MacLeod:** Scary.

**Ms. Tanny:** Is that okay?

**The Chair:** Yes, so talk as loud as you possibly can or put the microphone as close to yourself as you can.

**Ms. Tanny:** Okay. We'll try.

Thank you very much for giving me the opportunity to address the committee. I am a caseworker with Toronto Social Services. I am not speaking, though, on their behalf. I am here to address you on the experiences that I have had in Family Court and the experiences my daughter has had, and the disastrous results due to the fact that she did not have legal representation.

I will begin with a simple situation I encountered when I first started working for social services. It was with a single mom who had been in a shelter on three different occasions. I met her when she had left the matrimonial home for the fourth time. She had taken her daughter with her. Her daughter was 17 years old. The daughter had originally lived in a very nice house and did not want to live in one-room accommodation—she wanted to be together with her friends. Even though she was in a very abusive situation, the daughter was not sure whether she wanted to remain with the mother or not.

I did everything in our power to help the mother along until she managed to get to family court. She was hoping to get a support order that would allow her to get a better apartment, to have some money for her daughter who was 17 years old. Her daughter was not represented.

She got to family court, and the family court judge basically said that since social services was providing support, the issue of support was no longer of any immediate need. They spent the following few hours that this lady had worked so hard to fund discussing basically the contribution the husband's father had made to the purchase of the matrimonial home. Needless to say, my co-workers were disappointed; they were shocked. I was merely saddened, because that experience—my client's experience—resonated with the experience I had in family court and that my daughter had. None of that should have happened if she had had representation.

I would like to focus on what happens to children in family court when they are not represented in the hearings having to do with custody, support and division of property.

Basically, I'm a single mom since 1994. I have a daughter. My daughter's name is Erica. She is a university student. She is very capable. She has a 3.89 average, and she is a member of the swimming varsity team.

However, Erica is also disabled. She is currently in a wheelchair, but she does not let her medical condition get in the way. She is participating in swimming meets for the Paralympics and she is a strong advocate for children with special needs. When she graduates, she would like to go to law school.

Unfortunately, we live from paycheque to paycheque. My daughter's financial needs—I am supporting her completely. We spend one of our paycheques to pay for the rent; the other one, basically, to pay for physiotherapy that's not covered; for transportation, because Wheel-Trans often does not show up to take her to school on time for exams or to pick her up; and for wheelchair repairs that, unfortunately, are not being covered by the government.

But we have not always lived this way. Erica is what Family Court calls "a child of the marriage," namely that she was born within a marriage relationship and is entitled to all the protections under the Family Law Act of Ontario and the Divorce Act of Canada.

Erica was 12 years old when my ex-husband served us with papers indicating that he wanted a separation. At that point, I had been married for 23 years, and during the 23 years of marriage we had accumulated substantial assets. We had \$400,000 in Erica's name for her future education. We had a paid-for matrimonial home that is now worth \$700,000, \$800,000. We had a partnership in the United States that we set up when we lived there that was worth about \$1.5 million, and various other investments, my ex-husband's RRSPs and pension plan. Sorry—our partnership in the States was \$2.5 million. He had pension plans and so on worth over \$1.5 million. To date, 13 years later, neither Erica nor I have had access to any of these funds, and neither she nor I gets any kind of financial support, even though we have been in family court for 13 years.

I guess that prior to the separation, my husband had transferred all of our joint assets into his name, and Erica's assets, so it left me with no means to pursue my rights or Erica's rights in family court. I tried to get in touch with legal aid. They would not fund me because I was working part-time at the time. Eventually, I managed to get an inexpensive, beginning lawyer, and she managed to get us \$1,500 in support per month, based basically on the difference in salary between my ex-husband and me, with no consideration of the substantial assets. Based on substantial medical evidence, I also got sole custody of my daughter. We have never made a claim for abuse because we didn't want that to be dragged through court. I was given sole custody of my daughter, but I was not given any financial means with which to represent her and represent her needs.

During the following 12 years, the past 13 years, I incurred over \$100,000 in debt in legal fees and court costs when I tried to resolve issues having to do with Erica's education and support. During this whole time, I have been singularly unsuccessful. When I tried to argue on Erica's behalf, the judges did not see Erica. They did not see her. Had she been present there in body and spirit and mind, and with a lawyer, they would not have made some of the decisions they made.

I was told during all these court hearings that even though Erica was a child of the marriage and she was being affected by decisions having to do with support, she was not a party to the proceedings, so as such, she did not have any standing in court. It was up to me to represent her, but at the same time, I didn't have the funds to do that.

Mr. Jarvis from Beard Winter was our second lawyer. He really should have worked mostly on division of property, but an issue in regard to Erica's education came up. Prior to our separation, Erica had been going to a Jewish private school system. She was doing very well. After the separation, my ex-husband cancelled all the cheques that he had issued to the school. So Mr. Jarvis argued on Erica's behalf that she had special needs and that there were funds available to fund her education, and we won that hearing. It was a very expensive hearing.

It went to appeal. My husband took it to appeal. We won the appeal; again, money spent that really should have been spent, by a lawyer representing Erica. Unfortunately, we ran out of money, and we tried after that to function through case conferences, but as you know, in case conferences a judge cannot make an order. It's basically a negotiation session. When one of the parties, such as my husband, had all the assets and I had none, there was no reason for him to negotiate. Why should he negotiate when he can have it all by basically striking my hearings or just hanging in there?

1630

Once again, in subsequent hearings, I tried to raise issues with regard to Erica, but I was told again that she was not party to the proceedings. So my ex-husband realized that the easiest way to sort of knock us out of the game was by simply multiplying the proceedings. He started a case in the United States in regard to Erica's money and in regard to our joint money, and since I could not afford a lawyer in the States—he knew Erica and I could not afford a lawyer in the States—he basically got a summary judgment declaring that all the money was his.

He started proceedings in the Jewish court, and those are proceedings where one does not need a lawyer. Given the whole issue with Erica's education, which was not being funded, I had asked the rabbis to work out something before we proceeded to this Jewish divorce, which incidentally was of no great necessity for either of us because my ex-husband was involved with and eventually married a lady who was of Catholic beliefs, and in that situation one does not need a religious divorce. In my case, it was not necessary because I wasn't getting married. So all in all, it was a red herring.

During the negotiations that the rabbis were trying to conduct, my ex-husband appeared in Family Court before Judge Walsh. At the time, I did not have a lawyer. I went by myself. I asked Judge Walsh for time to try to get a lawyer through legal aid. He said no. I told him that I need help to represent my daughter and my daughter's interests. He said no, and he basically struck all my pleadings. He basically said that the support order was null and void and the custody order, which had to do with Erica's safety, was null and void based on the fact that I had "refused to give my ex-husband a Jewish divorce." That refers to section 21 of the Divorce Act.

Had my daughter's lawyer been there, I'm quite sure that Judge Walsh would not have made that decision, because, on balance, if you balance the rights of the father to date in his religion, which in fact was not the case, but even assuming that it was, I guess the needs of the child for support for basic things such as food, shelter and education—

**The Chair:** Ms. Tanny, you have one minute left. If you can just wrap up your presentation, I'd appreciate that. Thank you.

**Ms. Tanny:** Sure—he would not have done that. So basically what I would like to argue is that whenever you have a huge discrepancy in funding and assets, and when it comes to family law and most support orders are obtained through Family Court, then the children need to be represented. They need to have someone to represent them, because it often becomes the responsibility of the mother, who has no assets to represent herself and her needs and also advocate on behalf of the child.

That's my presentation.

**The Chair:** Thank you for your presentation, and thank you for taking the time to come here today.

#### LAWRENCE KONG

**The Chair:** Members of the committee, our next presenter is Lawrence Kong. This is a teleconference presentation. So we'll just ask if Mr. Kong is there.

**Mr. Lawrence Kong:** Hello? Members of the committee?

**The Chair:** This is the Chairman, Lorenzo Berardinetti. Welcome to our committee. You have 15 minutes to address the committee. Any time that you don't use can be used by the three parties to ask you questions.

**Mr. Kong:** Thank you, and thank you, members of the committee, for having me here.

The Child and Family Services Act was originally designed supposedly to ensure that in cases where it is unsuitable to have a child left at home, in cases where the parents are considered unsuitable, the child will be placed under government care. Unfortunately, it has come to my attention—I believe that in the majority of cases the children's aid society deals with it is in fact in the best interests of the child to keep the child in his natural home with his natural parents. Many of these cases are ones where the child is, unfortunately, snatched out of the home for malicious, trivial or political reasons.

I think it should be self-evident that those best suited to and most eager to provide for and love a child are his own mother and father. The system needs to be reformed with this principle in mind. It should be doctrine both in law and in practice that this is the rule rather than the exception. So I would urge that the committee make decisions regarding this bill, the Child and Family Services Act, and family law with the true interests of the child rather than the Family Court industry in mind.

I would also comfortably state that in the majority of cases there is no reason for the child to be in the custody of government workers, for even if the natural parents were truly unfit, surely there is an uncle or an aunt or grandparents who would be a better choice.

With regard to the bill in question, what we need first is to remove the children's aid society's immunity from scrutiny by the Ombudsman of Ontario. I would see that as being a necessary first step towards accountability.

Arguably, one of the greatest threats to families nowadays is the existence of these children's aid societies that are accountable to no one. The fear often provides a great disincentive as well for potential parents to bring more children into this world, knowing that they could easily be taken away from them. Unfortunately, the children's aid society and the Family Court act without the due process afforded by criminal law. In criminal law, we act under the premise, first, that those accused are innocent until proven guilty, and that they have the right to a fair hearing. Unfortunately, that's not the case with family law. The children are taken away first and then the parents have to, on their own dime, appeal that. This tearing apart of families is unnatural and unhealthy for the children as well as for society. Arguably, there is a great correlation between those who graduate from the foster care system or who have experience in the foster care system and a future tendency, say, towards criminal and deviant behaviour.

1640

In conclusion, I would urge that the committee keep these facts in mind when deciding on any issues to do with family law or the CFSA. I would also urge that the committee look into one website, [www.fixcas.com](http://www.fixcas.com), which I have found very useful in researching this issue, to which I am admittedly new. That is the website for VOCA, which I'm not actually a member of. It's the Dufferin Voices of Children Alliance, a group that is dedicated to reforming the children's aid society. As well, [www.canadacourtwatch.com](http://www.canadacourtwatch.com) has also been very instrumental.

Thank you for your time.

**The Chair:** Thank you, Mr. Kong. There could be some questions from the committee. There are approximately eight minutes left, so just under three minutes per party. We'll start with the NDP. Ms. Horwath may have some questions of you.

**Ms. Horwath:** Thank you, Mr. Kong, for your presentation. I want to thank you particularly for raising the issue of the need for Ombudsman oversight of children's aid societies. As you know, the government has already

decided not to do that, under harsh criticism from myself—my name is Andrea Horwath, and I'm the critic for children and youth services for the NDP caucus. Certainly when they had the chance, they should have given the Ombudsman opportunity for oversight. In fact, for your information, the Ombudsman of Ontario has made a written presentation to this committee that concurs in your analysis.

**Mr. Kong:** Where is that?

**Ms. Horwath:** It was provided to us in writing; he hasn't spoken to us verbally. But I think you've hit the nail on the head in terms of the fact that this particular province is far behind. If they were committed to a real system of protecting children and making sure we are doing the right thing by children, the Ombudsman would be working hand in hand with the child advocate in making sure that the services provided for children were adequate and appropriate, and serving children in the right ways.

I want to thank you for bringing that forward and say to you that I agree wholeheartedly and think it's shameful that the province is at the end of the line, if you want to call it that, at the back of the pack in terms of Ombudsman oversight for children's aid societies.

**The Chair:** We'll move on to the Liberal Party. Are there any questions or comments?

**Mrs. Van Bommel:** I just want to thank you very much for your participation, Mr. Kong. We have no questions.

**The Chair:** We'll move on to the Conservative Party. Ms. MacLeod.

**Ms. MacLeod:** Thank you very much, Mr. Kong. We certainly appreciate your presentation today. We appreciate, certainly on this side, your view bringing the Ombudsman into today's debate and the next couple of days. As Ms. Horwath indicated, he will not be presenting in front of us today, but has provided us with a presentation.

I think it's very important that we have access to as many people across Ontario as possible, and I'm certainly happy that you took the opportunity to teleconference with us today.

**The Chair:** Thank you, Mr. Kong.

YOUTH IN CARE,  
LONDON AND MIDDLESEX  
CHILDREN'S AID SOCIETY

**The Chair:** We'll move on to our next presentation, Youth in Care, London and Middlesex CAS. If there are people from that group who want to come forward.

Members of the committee, they will only be giving their first names. That's all you need to do. Please have a seat. If anybody wants some water, there's water there. Good afternoon.

**Kat:** Hi.

**The Chair:** Hi. All you have to give is your first name.

**Kat:** Okay. I'm Kat.

**The Chair:** Just relax. It's very informal. I'm just as nervous as you are.

**Ms. MacLeod:** Why don't we all relax.

**The Chair:** Yes, we'll take a deep breath.

**Paul:** I'm Paul.

**Erica:** I'm Erica.

**Mr. Zimmer:** I'm Dave.

**Mrs. Van Bommel:** I'm Maria.

**Mr. Qaadri:** I'm Shafiq.

**The Chair:** My name is Lorenzo.

**Ms. MacLeod:** I'm Lisa.

**Ms. Horwath:** Andrea.

**Erica:** We agree with Bill 165. We support it, because we want the advocate to have the freedom and authority to complete their job fully without interference, I guess, from the government as much as possible. We have a couple of suggestions, amendments, things to be added to the bill.

First, the act does not include some specific populations. Right now it's supposed to include children or youth who are accessing services provided by the government: children's aid societies, mental health and all that jazz. Basically, after Bill 165 goes through, as I'm sure you're aware, it's not including mental health, physical disabilities, and youth and children who are involved with the justice system whatsoever. We think it should include all youth, all children, regardless of who they are and what they're doing.

Also, as far as location, it's based out of Toronto right now. We want it to be able to have satellite agencies, so that if somebody has an issue up north or out west, wherever in the province, they have the ability to go in and not have to go through—it's an access issue, basically.

**Paul:** The other issue is age. Some kids, as soon as they turn 18, don't get any service from the advocate. I'm 19, so I don't get any service from anybody, from any of them. They get service from mental health and children's aid. Some kids are 21 right now—almost turning 21—and they need help. In their group, when they have a problem they can't really go to the office at all for any of their problems. Pretty much the only other place they can go for help is the police.

The other issue is that we want kids to have their input on the bill. I know how the bill was passed through with the adults. They had most of the input, not the kids having a say in selecting an advocate. So if we have one of our kids for the advocate instead of an adult, for youth to make more decisions and power and reporting to the Ontario government.

**Kat:** One of the biggest problems that I know I experienced was not knowing about my rights in general. It's not only me; I think a lot of kids need to be more informed. In Bill 165, there is no responsibility to have to enforce it and give kids knowledge of it, and I think that should be in place.

Also, making it positive—there's a negative stigma around it: "You're going to be punished if you call." That's not okay. I think that should be made positive just to help you better your placement, wherever that is. The advocate should also have more investigative powers. So, for example, an officer can go to a house to subpoena

somebody from Monday to Friday from 9 to 5, within reasonable hours, whereas the advocate has to call and say she's coming. That can sometimes give placements time to hide or change whatever it might be. I think that happens quite a lot. I know I've seen it myself. Maybe just having the hours would help that a little more.

**1650**

**The Chair:** Okay. Thank you. There's some time left. In fact, there are about 10 minutes left, and what we're going to do is have a few questions. They won't be hard; I promise you that. You can answer them if you want to, and if you don't want to answer them, you don't have to.

In rotation, we'll start with the Liberal Party—they'll get three minutes to ask you questions—and then the Conservatives and then the NDP. Three minutes each. We'll start with Maria.

**Mrs. Van Bommel:** Hi. How are you? Thanks for coming in. Actually, it's very important for us to hear from you because you are the consumer group that is going to use the advocate, and we need to hear what you're thinking on this whole issue of a child advocate. There are a couple of different things in here. They're all very important. One of them is finding out about the advocate and how to access the advocate. What is the best way to do that? How do you find your information? Is it through the school? Do we put it on Internet sites? How do we best get that information out so that all children know that they have an advocate working for them and they all know how to access that advocate, with the privacy that they need? You talked about somebody saying that you might be punished if you contact. What is the best way to get that information to you, and what is one of the best ways for you to use that information and access the advocate?

**Kat:** I think it should be mandatory to have information available. In some group homes and foster homes and even in some hospitals, they have posters. It's just a very basic outline of what the advocacy office is and the number that you can call. I think it would help if that was actually mandatory that every placement has to have it, because I know that's not happening right now. I think that would help, just to have more awareness that way. Also, focus groups, websites, things like that, were things we all talked about to bring out the advocacy and what it's about.

**Mrs. Van Bommel:** How did you find out about Bill 165?

**Kat:** The girl to my left.

**Mrs. Van Bommel:** How did you learn about it?

**Erica:** It's a peer thing. I found out about the advocate and all that through another youth. He found out through another youth. It's word-of-mouth; that's definitely how I've used it and how really anybody has used it.

We had talked about planning for this, focus groups and surveys. I know right now it's best practice to have the posters, the numbers, the cards and everything posted in group homes and some hospitals. I haven't seen any in hospitals. Group homes, schools, foster homes, I guess—they're supposed to have them there too; I've never seen one in a foster home. I know that one of the issues was

that funding was cut somewhere along the line, and we didn't have the available resources to post those. That's just one of the issues within the current act.

**Mrs. Van Bommel:** Thank you.

**The Chair:** Thank you. We'll move on to Lisa.

**Ms. MacLeod:** Thank you guys very much for coming: Erica, Paul and Kat. Everything that you mentioned here today as key issues—access, age, and simply not knowing about the advocate—was raised this morning. But what's so important about your presentation is that you're the first ones who need to access this advocate, and it's coming out of your mouth to us, which I think is extremely important. So I wanted to say thank you for taking the time today.

I want to read to you something that we received as a committee earlier. I'm not sure if my other colleagues read it. It's from Syl Apps centre in Oakville. It's from nine young people in custody. They say:

"The only reason we are able to contact the office of the advocate is because staff in the facility are required to place a call through to the advocate's office within a 24-hour time period from the request. Many of them do not want to do so. The only reason we are aware of the existence of an advocate is because there are signs posted in several of our common living areas. If this bill is passed," they ask, "will those signs come down? How will we know who to turn to when our rights are being violated? Many of us aren't even 100% sure what our rights are until an advocate fully explains them to us," and they go on.

I think that's very important to read into the record. I just want to follow up with my friend Maria, who asks, "How do we get the information out to you?" Should we put up a website or should the advocate find ways—is it Facebook? I don't know. I'm on Facebook. I'm also the youngest member of the Legislature, but don't tell anyone else that. Those are some of the things. Should we be thinking outside of the box here? I know that your generation is different than mine and mine's different from others here.

*Interjection.*

**Ms. MacLeod:** I just said that to you, David. I'm teasing you.

I just want to know: How do we effectively communicate to you guys so that you know what's out there? Are you nervous about this bill passing that the signs will come down?

**Kat:** I would be nervous about that myself because kids are mistreated everywhere. It's not just in a group home or a foster home. It's everywhere, and I think they should have the right. I don't actually think the staff should have to call. I think the kids should have the right to call, and I don't see why the staff would call if that's who they're reporting. That seems a little backwards to me—flip-flopped.

**Ms. MacLeod:** You're right.

I just have another quick question, and please finish that thought: Should we post these notices in schools?

**Erica:** Yes, actually. Along with that, though, if they're going to post them in schools—like Kat said,

people don't even know their rights. They don't know that they have the right to—we've gone over a few of the rights on the ride here. It's specific things, little things. They might seem trivial, yes, but when you're in a group home and you have no control over anything, those little things really matter.

Definitely, when they post those things, they should post the rights too because they're really hard to remember. Even then, definitely another right to be added—I'm not sure how this would go about coming into effect, if it would be involved in this, but you have the right to access a lawyer independently, or if you'd like to speak to a lawyer privately—you have a right to speak to your social worker privately. You should have the right to speak to the advocate privately. That's another thing that we had talked about in London and all that jazz too, right? You don't know your rights. You have no reason to call the advocate. Ignorance is not always bliss.

**Ms. MacLeod:** Yes. You guys are amazing. Thank for coming today, and if you ever need to talk to anybody, you can talk to any one of us. Okay? Thank you.

**The Chair:** We'll move on, then, to Andrea.

**Ms. Horwath:** I just want to know where you got your piercings, because they all look really great. Did you all go to the same spot? It looks great.

**Erica:** At different times, probably at the same spot.

**Ms. Horwath:** You should do a little advertising for whoever it was, because it looks great.

I want to follow up on two really quick things. One's with Paul. Paul, you talked about the issue of the age limit. Do you have any recommendation on what the upper age limit might be? Some days I need an advocate, I have to say. You're saying that 18's not appropriate, and I agree with you. Did you have any dialogue about if there is an upper age limit that you might support?

**Paul:** The age only gets changed because, right now, I have two more years before I get kicked off of ECM. We'd like to get the ECM rate changed too, instead of 21, to 24. So if it does get changed, then we'd like to have it so that when you're 24—as soon as you're 21, and if it gets changed—

**Mr. Zimmer:** What's ECM?

**Paul:** Extended care and maintenance.

**Ms. Horwath:** Extended care and maintenance. It's part of the Child and Family Services Act. We tried to get that changed in the last bill, but it didn't work either.

**Paul:** Say I have a problem: I'd like to be able to call them and then they'd come down to London and talk to me about it and everything like that.

**1700**

**Ms. Horwath:** That's great. I'm glad you raised the issue of the kind of—I think you were calling it the flip-flop. It seems kind of backwards—right?—about asking the person who's responsible for your care that you're complaining about to get you the phone so you can complain about them. That's kind of bizarre. That has come up, and there are criticisms specifically about this legislation because, in fact, it doesn't speak to that. It speaks to the fact that you have the right to access the advocate, but the bill—the nitty-gritty—the way it's written doesn't

talk about the fact that you should be able to have access to a phone and to some privacy so that you can make that call in security and know that you're not being spied on by somebody. You don't have to feel like there's somebody behind your back listening and watching everything you say and do, because that's totally inappropriate. Again, I think it's important that you raise that, and I'm certainly looking forward to bringing some amendments that are going to cover off some of those issues. I'm very glad that you raised it.

The issue that I'm a little more worried about is how we get over—some of these things we can deal with in legislation, but like Maria was talking about, where do you advertise? How do we let young people know that these things exist for them to access? You raised the stigma issue. So how do we get rid of the stigma for young people who are accessing the advocate or who are trying to enforce their rights? You're the young people; you would experience the stigma, right? So what do you need to feel, "I shouldn't be embarrassed about this; I shouldn't feel badly about this; I should feel proud that I understand my rights and proud that I'm enforcing my rights"? How do you switch that to a positive thing instead of a stigmatization situation? Any idea, suggestions?

**Kat:** Yes. We briefly talked about having a peer advocate almost, like a peer mentor. For example, Erica tells me, usually, and she has heard from other people—

**Ms. Horwath:** So this is the peer thing you were talking about. Very good.

**Kat:** Right. It's like a chain, and everyone finds out that way. If you had a system even with a phone number, because it's easier, I think, for youth to talk to youth in some situations, and then that youth could direct them to the advocacy office with the right information. If it's their caretaker whom they want to report, they're not going to want to go to them, naturally. They'd want to go to a friend. So I would think that would work.

**Ms. Horwath:** So establish this network and maybe provide some funding and supports for it so that it exists within the control and the response from young people as opposed to everybody else—agents or bureaucrats or however you want to put it.

Thanks. I appreciate that. Thank you very much for coming in. I really do appreciate your comments.

**The Chair:** Thank you. That completes the presentation. Thanks for coming out. I guess you're going back to London today. So thanks for coming to Toronto to visit. You're welcome to stay if you want to; we're going to be here a long time.

RESIDENTIAL PLACEMENT  
ADVISORY COMMITTEE,  
FAMILY SERVICE  
WINDSOR-ESSEX COUNTY

**The Chair:** Our next presentation is a teleconference. It's the Residential Placement Advisory Committee,

Family Service Windsor-Essex, and it's Paul Daignault, coordinator. Hello, Paul. Are you there?

**Mr. Paul Daignault:** Yes, I am, thank you.

**The Chair:** Hi. I'm Lorenzo Berardinetti. I'm the Chair of the committee. You have 15 minutes to make your presentation. If you don't use up all your time, we may have some questions of you.

**Mr. Daignault:** Okay. I want to thank the committee for allowing me to address some of the issues I want to speak to.

I'm a professional social worker. I worked for some 34 years at a children's aid society in Windsor here, the Catholic Children's Aid Society for Essex. After I retired, I worked for one year at Chatham-Kent Integrated Children's Services. I retired in 1996 and I've been in private practice. I've also worked for the children's lawyer's office when there are issues of custody and access. I've been in private practice. For the last two years, I've been involved as a member and chairperson of RPAC for the Windsor-Essex, Chatham-Kent, Sarnia-Lambton committee. I'm currently, as I said, the coordinator of that committee.

I'm sure that members are aware, but there is section 34 in the Child and Family Services Act that sets up a residential placement advisory committee. Basically, there's a requirement under the Child and Family Services Act that whenever a young person or child is placed in a residential setting—that's one with 10 beds or more—there's a requirement that if the placement is going to last 90 days or more, an outside group, known as an RPAC, needs to meet with that child, the parents, the guardians, the service providers, to review the placement, to make a determination if the placement is addressing the child's special needs and what their special needs are, and to basically make recommendations. For example, to make this concrete, in our area here, there are Maryvale in Windsor and the Windsor Regional Children's Centre, and the Inn of Windsor, which services adolescent girls. There's no 10-bed residence in Kent county, but in Lambton county there is the Huron House home for boys and the Community Girls' Home.

The way the system is set up currently is that when a young person is admitted to those programs and the length of stay is expected to be 90 days or more, I receive—not myself, but my secretary receives—a notice of the placement. We then arrange for a committee. We invite the child and the parents or guardian, and if the child is a crown ward with access, we invite the parent, and perhaps a representative from the children's aid society—not perhaps; we do invite them; if the child is in care, we expect the CAS to have a representative there—as well as the service provider—someone from Maryvale, for example. The committee consists of myself as coordinator; a chairperson, who is a citizen committee member; a service agency representative; and a representative from the ministry. So it's basically a committee of four. We meet at the facility, so we do see the child, and we basically discuss why the child is there and how they feel about being there. We then make recommendations in regard to the placement.

When the child remains in the program, we need to review it within nine months. In some situations, where there are some issues or concerns, we might decide to review the placement in three months or six months, but we must review it within nine months.

My purpose in contacting you is to make you fully aware that there is a structure in place that does sort of complement the work of the advocacy office. As I say, there are mandatory reviews for children placed in residential facilities.

Also, in section 34 of the act—and I've sent you a copy of that—there is a section that deals with a child who is in a group home and is complaining about his placement. We review those placements also, a group home being a facility with five to nine beds.

Every year we receive several referrals from the advocacy office at the present time. They may have received a phone call from a young person in a facility who is complaining that maybe the setting is too intrusive, they don't have enough freedom or they're not seeing their parent often enough. It could be whatever sort of complaint. But the advocate's office will contact myself as coordinator here if the child is from the tri-county area. They'll contact myself. I'll then contact the child, and I'll arrange for an RPAC review of that placement.

When I looked at Bill 165, I looked at the bill in total. I noticed there's a number of similarities between Bill 165 and section 34 of the Child and Family Services Act. Many times the function and purposes are almost identical. Basically, one of my recommendations is that, when the final wording of the advocacy bill is done, there be some reference made to an RPAC, the existing structure. Under "Powers," 14(1)(b), it's proposed that the advocate can basically conduct reviews, and I might suggest that they also can request a residential placement advisory committee in the child's home jurisdiction to conduct a review.

I'm saying that there is a system in place to review placements of children in residential facilities. I'm going to Maryvale tomorrow with a committee of three others, and I'll be doing one new placement and three existing placements.

The RPAC is, I think, at arm's length from the ministry. We're funded by the ministry, but we've been located since 1985 or so at the Family Service Windsor office here, where I'm calling from. The letter that we send after we've had a review, the finding, the recommendation, is sent to the child, the child's parents, the children's aid society, and a copy goes to the program supervisor here in Windsor with the ministry.

That's the bottom line of my presentation, so I can maybe answer your questions or open it up for discussion.

1710

**The Chair:** Thank you, Mr. Daignault. We have about two and a half minutes per party, and we'll start with the Conservatives.

**Ms. MacLeod:** Mr. Daignault, I'm the official opposition's critic for the Ministry of Children and Youth

Services, and I just wanted to say thank you very much for your presentation today and for providing a perspective from the other side. So I just wanted to say thanks, and we'll take everything into consideration.

**The Chair:** Andrea Horwath from the NDP.

**Ms. Horwath:** Hello, Mr. Daignault. I appreciate your remarks as well. I'm wondering if you're aware of the Auditor General's report that came out in the fall. Some would say that it was the impetus for the minister to finally get this bill on the table, in terms of his criticism of some of the accountability of children's aid societies in the province of Ontario. Are you aware of that report?

**Mr. Daignault:** In general.

**Ms. Horwath:** I'm not raising that in any way at all as a criticism of the service that you and your committee, particularly, provide. But I think it's important to put on the record the reality that the reason we need a child advocate who is independent, as well as the reason, frankly, that we need independent oversight of children's aid societies by the Ombudsman, is because the auditor, the guy who only really looks at money, found significant problems within the systems that we have in place.

I think that what your presentation is saying is that we have systems in place already. What I would submit to you is that there is significant concern in many quarters that the systems that we have in place to deal with the issues of children and youth and their experience with things like the child and family services sector, the child welfare sector, have not been positive at many turns. So the reality is that although systems are in place, the systems are not effectively and not appropriately helping our children, which is what we want them to do.

Again, I'm not raising this in any way as a criticism of yourself, but rather to say that the office of the independent child advocate—as well as, I would hope, one day soon, the Ombudsman—the whole purpose of it is to determine where the systems are failing our children and how we put in place the repairs that need to be made to the systems so that our children have a fighting chance, often in circumstances where they've been dealt a pretty nasty hand. I want to put that out there, because although I do respect the work that you and others like you do, I think we need to acknowledge that the reason we're here today is to talk about how we provide opportunities for young people to say, "Look, it's not working for me. The system is failing me, and somebody, darn it, needs to hear what I have to say about that."

**Mr. Daignault:** But I do want you to know that we do—I'm not speaking from a children's aid society perspective, but all children in care are given a pamphlet or should have a pamphlet and should have information reinforced by their worker about their rights and the process for following through on their complaints. One of those is certainly, if they're placed in a residential facility, that there's an outside group that does come in that's not affiliated with the children's aid society. We're basically an independent group. The chairperson in Sarnia is the director of Big Brothers; then there's a ministry rep and there's a representative of an agency. So

we're an independent group that's looking at the child many times. We do make criticisms of the CAS. Sometimes there are kids who are placed in a facility where really they don't have a parent to plan for them, where the CAS really should have stepped in and provided some care for this child prior to the 16th birthday because the child is basically sitting in a limbo situation with no real family supports. We've made recommendations like that.

**Ms. Horwath:** Can I ask if you would agree, then, though, that the more the better in terms of people who are part of that team whose job it is to make sure that the children are receiving the kind of care and services they need?

**Mr. Daignault:** Yes. Maryvale is very well-thought-of. Huron House home for boys is another well-thought-of facility. They're all licensed. There are people who come in and make sure that they meet licensing requirements, and there are outside groups like ourselves which do meet with the individual child in person and with the child's parent to get some view from the parent as to how the child is doing, how they feel about the child being there. Things are a little different. With children in those facilities, they are not there by way of a court order, usually. They've been part of a plan of care.

**Ms. Horwath:** Thank you.

**The Chair:** Any questions from the Liberals? No. Thank you, Mr. Daignault, for your presentation today.

**Mr. Daignault:** Okay. Thank you very much.

#### MNAASGED CHILD AND FAMILY SERVICES

**The Chair:** Our next presentation: I think we are trying to get through to Mnaasged Child and Family Services. Again it's a teleconference. Carrie Tabobondung is the executive director.

Hello, it's Lorenzo Berardinetti, Chair of the standing committee on justice policy. I'd like to welcome—is this Carrie Tabobondung?

**Ms. Carrie Tabobondung:** Yes. Thank you.

**The Chair:** Welcome to our committee. You have 15 minutes to make a presentation. Any time you don't use in your presentation, committee members may have some questions of you. You can begin.

**Ms. Tabobondung:** I would like to begin by introducing myself once again. My name is Carrie Tabobondung, and I am the executive director of Mnaasged Child and Family Services. Throughout my address, I will be using “indigenous” and “First Nation” interchangeably to state the first peoples of this country.

Mnaasged Child and Family Services is a newly developed indigenous, pre-mandated child and family services agency in southwestern Ontario. The agency—

**The Chair:** I apologize for interrupting. We can barely hear. Maybe it's because of the distance or something, but some members of the committee, myself included, just have difficulty hearing. Take your time. You've got lots of time to speak, but nice and loud.

**Ms. Tabobondung:** Okay. I'm just wondering if the hands-free might be better, because I am speaking into a telephone. Is that better? Can everybody hear me?

**The Chair:** If you can put the telephone as close as you can to your mouth, perhaps that would be the best way.

**Ms. Tabobondung:** Okay. Is that better?

**The Chair:** Yes, it's getting better. If you just keep that volume level up, because I think some of us are getting older and harder of hearing.

**Ms. Tabobondung:** All right. I'll start again. I think most of you heard when I introduced myself as Carrie Tabobondung, the executive director of Mnaasged Child and Family Services. I also stated that throughout my address, I'll be using “indigenous” and “First Nation” interchangeably to state the first peoples of this country.

1720

Mnaasged Child and Family Services is a newly developed indigenous, pre-mandated child and family services agency in southwestern Ontario. The agency provides prevention-level services to seven First Nation communities. Those communities are: Aamjiwnaang First Nation, Kettle and Stony Point First Nation, Delaware Nation, Oneida Nation of the Thames, Chippewa of the Thames, Munsee-Delaware Nation, and finally, Caldwell First Nation.

Mnaasged means “something shiny,” related to the bright shining star just before dawn, which is known as the children's star. An elder from Chippewa of the Thames gave this spirit name to the organization early on.

The Mnaasged Child and Family Services initiative was the vision of the London district chiefs in early 2001 and 2002. That began with a social service agenda that encompassed child welfare, among other social issues. Mnaasged is a result of the chiefs' response to the alarming number of First Nation children being lost in the child welfare system and the rising number of First Nation families embroiled in child welfare matters. It's this motivation that has brought Mnaasged to the status it's at today. That energy is what continues to drive the leadership, the community workers and the technicians to reach the overall vision of the London district chiefs, which is total jurisdiction over First Nation members in child and family service matters. The hard work that has been put into this organization from day one, along with the incredible teamwork of the leadership, community workers and technicians today, has contributed to Mnaasged's solid foundation, with a clear path to full-society mandate by 2011.

We don't want to compromise our most valuable resource, which is our children. In First Nation culture, children are at the forefront of our way of life. The belief is that a child is a gift from the Creator, and the highest order of respect that we can show is to accept responsibility for the care and nurturing of that spirit and each child entrusted to us by the Creator. It is the belief that they are our future, and they must be coveted, protected and nurtured so that they can carry on the indigenous

knowledge they attain throughout their lifetime. It will then be passed on to their children, and the life cycle continues. The indigenous paradigm is different than the mainstream paradigm, which is the basis of my viewpoint on Bill 165 and the need for a child and youth advocate.

First, let me start by talking a little bit about our philosophy. We believe our children have rights too, much like you do. For example, indigenous children have a right to a spirit name, which is different than the English name given to most children. This spirit name identifies them in the language and provides them with a connection to creation. We believe that another right of children is a clan which assists them with their purpose and life work while they're here. Language is an opportunity to learn their first language as a means of communication and connection to Mother Earth. The land and resources—providing a connection to the land and resources that are there for them; family, which provides the nurturing, protection, support and identity to the child; love and nurturing, which is provided by parents, extended family members and community; safety and protection, which encompasses the belief that it's the responsibility of the extended family and community to raise the child; education—they have a right to learn the indigenous knowledge from their family and community about their people; and finally, culture and a way of life, which encompasses their spiritual rights—these are all needed to establish a solid foundation for indigenous children, along with the basic needs of a human being.

So my first question for the establishment of a child and youth advocate is: How will the advocate ensure that the rights of indigenous children are adhered to while in government care? What guides the advocate in protecting these rights?

The motivation of creating Mnaasged is to strive for excellence when it comes to indigenous children and families. The historical and contemporary attempts to protect indigenous children in this country have not been successful. This is based on the disproportionate numbers of indigenous children in care. We believe that we can do a better job when it comes to child welfare matters. It is based on an indigenous framework that encompasses the rights of indigenous children and a commitment to work with the child and family services legislation in this province.

My next concern is how effectively the advocate will respond to the needs of First Nations children and youth. Additionally, what sort of training will be accessed by the advocate and his or her staff to respond effectively to First Nations children and youth needs?

Mnaasged is located on Delaware Nation. The site offices exist in each First Nation community. How will the advocate deal with jurisdictional issues? My first recommendation includes a separate advocate office that deals with First Nations children and youth needs that is established with First Nations and staffed by First Nations personnel. If this is not practical, my recommendations include incorporating First Nations in the development of the advocate office. In order for staff to

deal effectively with First Nations children and youth, the advocate office needs to embrace training by First Nations to sensitize them to the historical and colonial context of indigenous people in this country.

Finally, I believe it's very important for the office of the advocate to work with First Nations on establishing protocols to ensure positive working relationships.

That concludes my presentation to the standing committee on Bill 165

**The Chair:** Thank you very much. We will spend the remaining time of the 15 minutes, which is approximately eight minutes, asking some questions. We'll start with the NDP, Andrea Horwath.

**Ms. Horwath:** Thanks, Ms. Tabobondung. I'm wondering if you can tell me if you would consider it a positive thing to ask the members of this committee to recommend to the government that the legislation include specific reference to the need for an advocate for First Nations communities, whether that be a deputy advocate or a co-advocate or some kind of acknowledgment in the legislation that the independent advocate's office set up a separate advocate's office, perhaps located closer to some of the First Nations communities, perhaps in the north, that is separately resourced and actually staffed by representatives from First Nations communities; that the staff, the advocate themselves, the co-advocate or deputy advocate, whatever you want to call them, is from an aboriginal or First Nations community and that all of the staff who resource that office also be indigenous peoples. What do you think about that?

**Ms. Tabobondung:** I think that is an excellent idea. One of the things that I think people get—and I've seen this in the documentation that I've researched prior to putting together my position, and that was having an office in the north, but I think something centrally located, because we do have quite an indigenous population in the south as well.

**Ms. Horwath:** That's a good point. I come from Hamilton, and of course we have the Six Nations very close to my community. We have a number of urban native communities within Hamilton, so I respect that observation and thank you for it. Perhaps a bit of both, perhaps a bit of the thing that you suggested in terms of making sure that our advocate's office is sensitized and trained, and in terms of the southern Ontario populations, has some of the capacity in our southern Ontario office, but then also perhaps something more in the north to be able to service the more remote communities as well.

**Ms. Tabobondung:** Exactly. And your suggestion around either a co-advocate or a separate arm or something that works in conjunction with is also reflected in the recommendations that I put forward.

1730

**Ms. Horwath:** Thank you very much.

**The Chair:** We'll move on now to the Liberal Party.

**Mrs. Van Bommel:** Thank you, Carrie, for all the work you do. Of the First Nations bands you listed, actually all of them are in my riding, except for Caldwell and Aamjiwnaang. I have certainly had an opportunity to

talk to the chiefs about what's happening to the young people of our First Nations. Could you, for this committee, tell people what happens when First Nations children are taken into care? What's going on right now?

**Ms. Tabobondung:** What we've been seeing—there's a wide spectrum, I guess. Some of our children are being taken right from the hospital—so from babies that are being apprehended from the hospitals to children being put into care, and some of our children are hard to place. I think it happens in the mainstream as well. But there's a certain age where they're not as easily placed and a lot of times get placed into institutionalized settings like group homes and that sort of thing. So there are lots of stories about our kids going into these institutions and being kind of shuffled around, not really having a strong base or foundation in any one of these places for very long. Of course, with the babies there's a very short time frame in terms of getting the parents to either turn around or adhere to some of the conditions that the societies have put on them. There isn't a lot of time to do that.

One of the things we are looking at as an agency, as we develop, is looking at strategically planning to get in there really quickly to start working with our parents, being really creative around that. We find, and just talking to my staff right now, that that seems to be where we need to focus our efforts because we are losing a lot of children and we're finding that some of our parents are not getting adequate support right at the get-go. I think there's a very short opportunity there for us to get in. That's one of the areas we're focusing: getting in very quickly to facilitate a quicker turnaround so our children can come back home. We're also looking at customary care, building the supports, the education and the awareness needed so that we can have the homes in our communities available for these children.

**Mrs. Van Bommel:** Thank you very much, Carrie, for everything you're doing.

**The Chair:** We'll move on, finally, to the Conservatives.

**Ms. MacLeod:** Thanks to my colleagues for this, and thank you, Carrie, for the work you're doing and for taking the time to talk to us today.

I just want to pick up on what my colleague from the NDP was talking about, which was the deputy advocate. I'm not sure if you know this or not, Carrie, but earlier today the first presentation we received was from Judy Finlay, who is presently Ontario's child advocate. She recommended that there be a deputy advocate who's a First Nation person with knowledge of and interest in the remote and northern communities. She suggested that the child and youth advocate needs to promote the preservation and reinforcement of the unique sense of place, identity, language and community among aboriginal children.

I was interested to note that once Ms. Horwath brought this up to you, you thought that maybe this should be enshrined in legislation based on the unique needs in your community. I just want to ask you to reiterate your thoughts on that.

Secondly, we had some youth in earlier today and we wanted to talk a little bit more about communicating the office of the independent child advocate. I'm wondering, from your perspective, how we would effectively communicate to your youth about this office, or if indeed there is a deputy child advocate for First Nations.

**Ms. Tabobondung:** I'll start with the whole idea of having a deputy advocate. I guess my thinking around that is that that would be the best approach, and obviously it's being supported by the current advocate.

One of the things that stuck out for me when I was reading the information was the complex needs. When we think about the First Nation children and youth in our communities, we always think of them as high-risk. It doesn't matter what family they come from; they're always considered high risk just because of the issues, whether they be historical, but definitely the social issues that exist in our communities, such as poverty and the disproportionate numbers of our children in care.

I think that, just based on our history alone, the core of the strength of our communities lies within our families and our extended families. When you look at some of the things that were done, such as residential school, that is tacked to the very core of our communities. That's what we're trying to bring back full circle. If you want to put in a more positive way, we're trying to correct some of the things, the parenting styles and whatnot, that came from a lot of our ancestors' being raised in those institutions that didn't provide them with those tools.

So when we take a look at our strategic planning, that's what we look at. We did some research early on in this project, and the number one reason for children going into care from these communities was the capacity of parenting. We realize that we need to take a look at that when we begin developing the programs and services of this organization because we need to weigh heavily on teaching our parents how to be with children again. We're still reeling from the intergenerational effects of residential school. Those are some of the complex or dynamic needs that I could see this separate arm or the co-advocate playing because you need specialized training to deal with those complex issues or those diverse needs.

In terms of your question around how to effectively communicate that service or that the office exists in our communities, what I think works best in our communities is education and awareness. There are different avenues you could use for that, but what works best in our communities is word of mouth, getting out and talking to the people about these things. Whether it's community feasts or community gatherings, that's probably the most effective way. A lot of our communities still get together once or twice a year as a whole community to celebrate something, whether it be their fall fairs or their traditional gatherings. Those are really good opportunities to address the youth and children and our families in the communities because that's who's coming out to these events.

We have radio stations, newsletters. Those avenues can also be used effectively.

**The Chair:** I'm going to interrupt here. That completes the time, and I want to thank you, Carrie, for your presentation today.

**Ms. Tabobondung:** Thank you.

#### BLOCK HEADZ

**The Chair:** We'll move on then to our next presentation, Building Links on Community Korner. If the members want to come up, there are a number of chairs here. My name's Lorenzo Berardinetti. I'm the Chair. Before we start, if you could just identify yourselves for the purposes of Hansard.

**Mr. Paul Green:** My name is Paul Green. I'm the executive director for BLOCK Headz.

**Mr. Boonaa Mohammed:** My name is Boonaa Mohammed. I'm also a member of BLOCK Headz and am also the director of community engagement for the Toronto Youth Cabinet.

**Mr. Kimani La Qua:** My name's Kimani, and I'm part of BLOCK Headz and part of TYC.

**Hassan:** My name's Hassan. I'm also part of BLOCK Headz and the Toronto Youth Cabinet. We're a volunteer-based youth organization at city hall.

1740

**The Chair:** Thank you, and welcome to the committee. The rules are pretty straightforward. You have 15 minutes to make your presentation. Any time that you don't use up, the committee members will ask questions. You can either have one person presenting or you can split the presentation up; whichever way you want.

**Mr. Green:** I think what we'll do is probably speak for ourselves for a couple of minutes and then open it up to any questions.

As the director of BLOCK Headz, I'll first tell you what the organization is about, really briefly. BLOCK Headz started approximately back in 1991 in direct relation to the high dropout rate of young black youth at the time. The Stephen Lewis report put it at approximately 50%. One of the main objectives of the organization was to go into schools and help youth organize around certain issues specific to youth—for instance, civic participation, jobs and career and business opportunities, knowledge of self as far as history, and also rights and responsibilities, both in the schools and in the streets. From that perspective, we've been advocates or teaching youth about becoming advocates. We use entertainment as a means to bring youth to the table, to I guess "edutain" youth and school officials and such.

Personally, I also have a history and an experience working with youth in young offender facilities, both in secure and in open custody. I supervised a group home for approximately two to three years. I've also worked at York detention as a corrections officer as well as a teacher, and also worked at York detention when it was publicly funded as well as privately funded.

I'll just give these gentlemen an opportunity to tell you—before they give you a couple of minutes of their time explaining what they do, I just wanted to also let

this committee know that there was an opportunity to bring many more youth to the table, because our name suggests a network: Building Links on Community Korner. We have a network of youth across not only the city but the GTA. Because of the short amount of time in finding out about this and being able to get the information out to youth, we weren't able to reach out to the youth that we really wanted to represent at this meeting. So I just wanted to make that point as it relates to just even reaching out and connecting with youth about this matter.

**Mr. Mohammed:** Like I said earlier, I'm a member of BLOCK Headz. I'm also the director of community engagement for the Toronto Youth Cabinet, which is a youth-based lobbying group out of city hall. Even in my role as director of community engagement, not even really knowing about what was going on with the bill and being out of the loop in terms of the process and there being not enough time for us to actually come and mobilize, it kind of reflects poorly on the committee. As the director of community engagement, my job is to be engaged and to be able to reinforce the ideas that are coming here and to my constituents, which is the youth of Toronto. I'd just like to say that it hasn't really been the best effort. Also, talking about how to better engage the youth, mobilizing the youth around the table, we're all very heavily involved in the community, whether it be the hip-hop community or the urban community and such.

I've recently been elected president of United Black Students @ Ryerson. Using that position to better engage the youth, I feel as though situations and policies like this have to be brought to the forefront, and youth have to be involved in the process. Otherwise, a lot of times, the policies get passed, and we suffer the consequences of the fact that we're not involved from the get-go. Our opinions are not taken into consideration, and there are loopholes and stuff that we're not able to comment on because we're basically not knowledgeable on the issue. So I just throw that out there.

**Hassan:** What I wanted to do is to speak about a little personal story that happened to me. I know we can talk about a lot of big talk. Basically, in 2003, I was in a youth detention centre called TYAC. TYAC is no longer open, and the reason why they closed it is because it wasn't a fit or safe place for youth at that time. So I was there and—I want to say this from the beginning—my charges were dropped; afterwards I was acquitted. I'm not a criminal. I don't have a record. But this is a story I want to share with you guys.

When I was in TYAC, the first night, I was asked—I was there during the strike. At that time, there were only supervisors. There were no jail guards; only supervisors. In the whole facility, there were about 200 kids, and about 15 to 20 people actually supervising it. What happened was, I didn't feel safe. I was actually attacked by the guards. I've been through a lot of hardship. There was no one at that time that I could speak to. There was no one I could go to. There was no one I could share my

story with. I shared my story recently with the advocate's office, and they said, "You know what, Hassan? If you knew about this, would you come to us?" And it was yes. I think a lot of times youth are not familiar with the advocacy office. Youth are not aware of their role, their responsibility.

Sometimes, it's really difficult. Currently, the advocate's office is connected to the province of Ontario, so the same people that put you through hardship are the same people you're complaining to, which is really difficult. It was difficult for me at the time and it would be difficult for any young people. It's just one of those things. It's important that we have an independent body that can hear some of these stories.

Also, I would like to recommend that this body not only deal with problems but also have an asset-based approach. The approach I'm talking about is, "Not only do we help you when things are going wrong, but let's work together. Let's build a community. Let's support youth. Let's help them. What do you want to do? What do you want to be when you grow up?" It's just one of those things. A lot of times, the government is there when you fall. What we're recommending is that, before the youth fall, let's support them and help them so they don't fall. If we had a body that was independent, it would be very supportive to youth.

**Mr. Green:** Again, I'd like to speak from an aspect of working in corrections and working with young offenders. I personally worked with David Meffe when he was at York detention. It was a situation where I was teaching, and he used to write letters to a few of the teachers that he was close to. I was one of the teachers that I guess he made a connection with. It was clear that things weren't right with his whole situation. Even the process of trying to speak to the problems that he was trying to address was very difficult. In talking to the York detention staff and trying to get them to speak to the problems he had, it was like a chain of command that everybody had to go through.

I don't think youth like David understand that there is an advocate they can go to and speak to and try to help their situations. I've been in many situations because, as I said, I was a teacher and a corrections officer, and I was on the units at times when kids were looking to speak to someone outside of the facility for complaints, and there wasn't really any way this could be addressed. At the time—I don't know if it's the same thing now. But even the Ombudsman was somebody who was staff before. There was a lot of conflict of relationships in trying to make a statement for youth.

I think it's very important. I know it's not even decided what areas of youth services this bill will cover, but I know it's very important to youth who are in custody, whether it be police custody or whether it be in a detention facility, either open or closed; they need to know it's something that's separate and they can feel comfortable in being able to go to the powers that be about their situations.

**The Chair:** Thank you. Any other comments?

**Mr. Green:** If there are any questions—

**The Chair:** I'm sure there will be some. We'll start this time with the Liberals. We have two minutes per party.

**Mrs. Van Bommel:** Thank you. I'm really glad you're here. But I get from you that you just barely heard about this, that you didn't know this was happening and it was more by accident that you found out. We've struggled over and over again today already with how to communicate this whole thing. We have an advocate for children and youth, but how do we communicate that? You talk about doing it through entertainment. I know my colleagues said Facebook, and my granddaughter likes MySpace.com. The thing is, how do we get the message out? How do we make sure that the youth and children know there is an advocate for them? I'm kind of struggling with this one.

1750

**Mr. Mohammed:** One major barrier is that the language sometimes is constructed in a way that may not be familiar to a lot of the youth, and there's a lot of bureaucracy around the way the information is delivered. Even the approach BLOCK Headz takes, using the edutainment method to educate people—unfortunately, youth don't have the greatest attention span, and sometimes sitting through meetings and the lingo and stuff gets boring, basically. So using it in a way where we can entertain youth, have it in a way that's meaningful to them so they can actually listen, and then kind of slice in the education—almost like tricking them, to a certain extent.

Right now I'm doing a tour around Toronto high schools getting youth involved in youth politics, the idea of civic engagement and our responsibilities as citizens of Toronto. It's information and it's a lot of lingo that isn't really youth-friendly and it's not something that youth can just understand that well. I'm a spoken-word artist myself, so using a method like poetry, where you're able to convey a message and it might be in a certain language they'd understand better—that's a method where youth are able to understand what's going on, and eventually, over time, breaking down the language barrier and becoming more comfortable. Even our being in an environment like this right now—not many youth would feel comfortable even speaking to you guys, you know what I mean? It's kind of intimidating, to tell you the truth. It's making it more comfortable and explaining to people that we deserve to be in places like this and this is where our opinions are valued. It's bringing them to the table and showing them that their opinion counts and giving them an opposition to express it.

**Hassan:** Another way is that we live in a very large province. It's really difficult to get the voices of youth. One of the things we recommended was, how do we bring the voices of youth to this table? A powerful way is through video. I'm not sure whether you guys have the resources here, but if youth were able to communicate to you guys through a format that is video-based, as opposed to actually coming here, taking the time out of—youth are at school and it's exam time. It's really difficult, you know? One of the things I would like to also

recommend is—I'm not sure what facilities or offices the youth advocate's office has, but they need to be across the province of Ontario, not just in Toronto or the major cities but everywhere so youth could go to these facilities; that it's not a phone call but an actual location they can visit.

**Mr. Green:** The last thing I'd add is that you brought up MySpace. I think the key is going to where youth are, so going to the network—youth communicate in different ways, you know? It's a subculture to the main culture out there. The key is that you do have to connect with either a lot of different youth organizations—and not only youth organizations; I'm talking even looking at the entertainment industry and areas where youth already are—if you want to get the response that you're really looking for.

**Mrs. Van Bommel:** Thank you.

**The Chair:** We'll move to the Conservatives.

**Ms. MacLeod:** I love your name, BLOCK Headz. You're definitely not blockheads. It was great to listen to you.

Paul, I want to thank you for starting, as soon as you opened your mouth, to say that we inadequately let people know about this. My colleague and I from the NDP, I want you to know, thought this was an inadequate time frame; it couldn't have been a worse time frame. We thought the committee should have been travelling. We thought we should have been using different methods of communication. My colleague alluded to the fact that I'm on Facebook; I'm hoping I can get some more friends here, because we're televised right now. But you go where the youth are. I'm so happy that most of you are members of the Toronto Youth Cabinet, because back in 2002-03, I was part of the city of Ottawa's first youth cabinet. When you're talking to youth, it's maybe very hard for people here to understand that you have to start doing things for youth by youth and get them included.

I know we're beating a dead horse, essentially, trying to talk about how we could have made things better up until this point. But there are two things now. How do we get youth engaged in the process? We've got Bill 165 here, so they still have time to communicate to MPPs on this committee. Second, once there is an advocate in place, how do we let them know there's an advocate? I guess that's the question I have to ask you folks, because you are youth. The third thing: I thought it was a great idea this morning to have a children's and youth's bill of rights. I ask all four of you if you can comment on those three things I just mentioned.

**Mr. Mohammed:** I can start off. In terms of the idea of how we get youth involved and how we get them to know about these things, I think it goes back to what we were saying earlier about the mode of communication and getting people who understand the youth and who can communicate with the youth to do the communicating. A lot of times, people may be outside of the circle trying to reach in; there's a big bubble and they may not be able to get to them. An organization like here, right now—we can do that. If there's something on the table—

**Ms. MacLeod:** If you know.

**Mr. Mohammed:** Yes. If we know about it and it's in adequate time and there are resources available, these are things that are very easily done.

Like I said, I'm on a tour right now, teaching youth my age, my peers, about youth engagement through politics and civic engagement. That's not exactly the easiest thing in the world, but it can be done in a way that's meaningful and that's also very entertaining at the same time. It's taking the information and almost condensing it in a form that is edible to youth in a way that's engaging and won't make us feel like we're being preached to. A lot of times, parents and teachers kind of talk down to youth. We talk to youth about talking with the youth, talking with them about what needs to happen.

Communication and the way we do it is the key in terms of making sure that youth get the message. After that, it's keeping the contact and making sure we know what the next step should be in terms of this process.

**Ms. MacLeod:** What do you think the next step is after leaving here today, knowing that we have a day filled with committee hearings but that there are still a few days left to consult with all of us? How do we do that? How do we make sure that kids in Toronto, Ottawa and up north are being communicated—

**Mr. Mohammed:** There are a lot of grassroots organizations in a lot of these cities that have direct contact with these youth. I have youth constituents all across the city. With the touch of a button, I can easily send out an e-mail to thousands of people who can find out about this information. It's communicating with these individuals, these people who are stakeholders in this, people who can also help you indirectly speak on behalf of youth and get the youth to the table.

**Ms. MacLeod:** Bring it down to the grassroots, essentially.

**Mr. Mohammed:** Exactly.

**Mr. Green:** I just want to say very quickly that I think there's a lack of linking to the youth who are living in at-risk conditions who are going to be using the youth advocate's office. I don't think it's okay just to reach across youth and touch a lot of affluent youth who are connected and are part of the youth cabinet anyway. There are a lot of youth who really don't know what the advocate's office is about.

It's simple. If you're looking at easy ways, there's MuchMusic, there are radio stations, there are advertisements. I think that how much money is put into the promotion of it is a reflection of how important it is.

**The Chair:** I'm going to have to move the meeting on.

**Ms. MacLeod:** I talk too much, is what he's trying to say.

**The Chair:** That's okay. All of this is important. Andrea Horwath for the NDP.

**Ms. Horwath:** I want to thank all of you for coming here. I also want to pick up on your comments about how ineffective we've been in terms of connecting with youth. I agree with Lisa about the fact that we tried to fight that fight at the subcommittee level to try to encourage the government not to be in such a hurry.

The government waited until the last minute to put this bill forward. The independent child and youth advocate should have been announced three years ago, and we should have gone through a three-year process of engaging young people across the province in every community and in every circumstance, to get their voices heard and bring their issues to the table and their experiences, as you've said. I agree with you 100%. But because the government didn't bother to do that—in fact, they threw a bill in front of us without having done that themselves. Even if they didn't invite me, I don't care, as long as they're inviting you—do you know what I'm saying? But they didn't. Now we're in a situation where we tried like crazy to scramble around and get some kind of engagement happening. I know the child advocate's office has also tried to get people here.

I just want to say thank you so much. It's disrespectful, the way you got here, without enough notice, without really having the opportunity to have the fulsome discussion with us. I feel badly about that. I wish I could change it; I can't. But I want to say that everything you brought to the table was extremely important. I hope, as we move forward and talk about how to—I think it was you, Hassan, who was saying that we should make this an asset-based approach in the future. Holy smokes. If today we haven't learned from you and other voices who have reflected exactly what you've said—that we need to be proactive and more engaging to create a better future with youth—then we're going to continue to fail in that effort. When the child advocate's office becomes independent, after the bill is in place, we need to really make sure that the pieces that allow them to be proactive are going to be there as well so this doesn't happen again.

**The Chair:** I'm under pressure to move the meeting on. Do you have one quick point, Hassan?

*Interjection.*

**The Chair:** Let him make—they're youth; we're here to listen to the youth.

1800

**Hassan:** Thank you. One other thing we could do, in terms of a recommendation, is expand the jurisdiction. There are a lot of youth who are falling through the cracks. There are a lot of youth who do not fit the criteria for the youth advocate's office to work with. There are a lot of youth who live in shelters. There are a lot of youth with mental illnesses. There are a lot of young people that the advocacy office could be working with, but they're not because they can't. Broaden the mandate and make it more inclusive in terms of youth who are dealing with hardships. Expand that and make it larger.

**Ms. Horwath:** Thanks. I appreciate that.

**The Chair:** Thank you for your time and for your excellent presentation.

#### ONTARIO FIRST NATIONS YOUNG PEOPLES COUNCIL

**The Chair:** The next presentation is Ontario First Nations Young Peoples Council, Nick Mainville. Is Nick

Mainville here, or anyone from Ontario First Nations Young Peoples Council?

**Ms. Sasha Maracle:** Yes. My name is Sasha Maracle. I'm a member of the Ontario First Nations Young Peoples Council.

**The Chair:** Is Nick Mainville here as well?

**Ms. Maracle:** No. I haven't seen him, anyway. He must have been unable to make it.

**The Chair:** You have 15 minutes to speak to us.

**Ms. Maracle:** Actually, I'm here as a representative of the Independent First Nations, so I'm going to do a brief background of the independents. They are not a political territorial organization; rather, they are a group consisting of 12 autonomous First Nations within Ontario. This includes Six Nations of the Grand River Territory, Big Trout Lake, Mohawks of Akwesasne, Bkejwanong Territory, Shoal Lake Number 39, Wabaseemoong First Nations, Whitesand First Nations, Lake Nipigon, Chippewas of Nawash Unceded, Chippewas of Saugeen First Nation, Shawanaga First Nation and Temagami First Nations.

**The Chair:** Sorry to interrupt. Can you just back off a little from the mike? It's for recording purposes.

**Ms. Maracle:** Combined, the membership of these nations is just over 45,000 First Nations people. A large component of this is First Nations youth. The Independent First Nations, as the name suggests, are independent and have entered into a protocol in which they agree to respect each other's autonomy while working together on issues of common concern. Most often, the approach independents take is varied and very diverse, as we have Haudenosaunee members, Oji-Cree and Anishinabek nations that comprise the group. Therefore, it's difficult to come with one common position as it relates to a subject of this nature. However, most of the leadership view our children as our most valuable asset, so they are paramount in the minds of our leadership.

Recognizing this, in 2005 the Independent First Nations struck the Independent First Nations Youth Working Group, the IFNYWG, to identify the concerns, issues and barriers of First Nations youth in these communities and what they are currently experiencing. We are to voice these concerns to the IFN leadership. As the primary representative myself, I am responsible for sitting with the Ontario First Nations Young Peoples Council as one of the 10 members on this board. I was elected by OFNYPC to be their female youth rep to the Assembly of First Nations. In July 2006 I was elected by the AFN NYC to be their female co-chair. Currently, I sit on the child welfare portfolio, special initiative housing, and I'm a member on economic development and international affairs.

Going into Bill 165, we believe that Bill 165 has been developed as a means to establish a child and youth advocate and advocacy office that will now act independently of the Ministry of Children and Youth Services. In this new bill, it states that the children and youth advocate will not act as an advocate to all children but will only act as an advocate on behalf of those children

who are currently in government care. By assisting only those who are currently in the Ontario child care system, we are ignoring the voices and concerns of other children who require support. This new bill will neglect children who are in need of prevention strategies and require assistance in advance of being placed in care. Also, additional prevention measures must be taken in order to ensure that more children are not being placed into care as a result of having these minimal support networks and early advocacy efforts made on their behalf.

This bill also indicates that the child and youth advocate will not be responsible for helping kids in schools for the deaf or blind, or those on probation or in police custody. Currently, this role is being fulfilled by the child and youth advocate, but Bill 165 will remove children and youth in these categories from the current workload of the advocate.

Bill 165 also indicates that different laws will be designed to protect children who will not be met under this bill. I have a series of questions pertaining to this. My main question is, which laws? Do these laws provide adequate or equal representation for the children who will not be represented under Bill 165? Are these laws already in place, so that the children who aren't represented under this bill will be cared for immediately when this bill is enacted, or will they have to wait for more legislation to be developed that pertains specifically to them in order to receive advocacy support?

This bill also states that the child and youth advocate won't be able to advocate for kids with complex special needs. Many of these children who are currently in care are in need of a variety of services such as special needs, educational support, counselling, and anger management, among a variety of other issues. I was curious about how these situations will be clarified before the bill is actually implemented.

If it's not considered adequate for special-needs children to receive service from this one individual, this one advocate, then I'm having a hard time understanding why it's acceptable for the rest of our children in the child care system to only have one individual representing them to the Legislative Assembly. I would also have to ask what laws are already in place—what legislation or bills have already been developed—to ensure that children who aren't represented under this bill are receiving special-needs services or assistance beyond the bill.

Also through this bill, it has been determined that the advocate will serve First Nations children under the same agreement. There will be no special treatment for any one group of children, and they will be equally represented by this advocate. However, I'd have to ask if this is a logical approach to take, considering we are all aware that First Nations youth face very different circumstances and lifestyles than the general public.

I'm sorry, but I just have this series of questions that need to be clarified before I'd even be comfortable saying I support this bill:

—Is this advocate going to be culturally sensitive to children or youth?

—Are they aware of the diversity that exists within First Nations across Ontario?

—Does this mean that the legislation that's developed to deal with preventing child apprehensions will also be equal, in a sense?

—Is the legislation that currently exists pertaining to First Nations people, such as the 1985 Child and Family Services Act and provisions under part X, or Bill 210 and the 1965 child welfare agreements, terms and conditions—are they going to be protected as a result of this bill being implemented?

A series of work has already been done with the government pertaining to Bill 210 and First Nations children, and I don't want to see any back-peddalling happening as a result of this bill being implemented.

#### 1810

Also, a large percentage of the 27,000 who have currently been identified in government care are of First Nations ancestry, and there's obviously a need for change in the system. There is a massive overrepresentation of First Nations kids in the corrections system and in government care. It's obvious that this system isn't working, and it's becoming increasingly evident that, due to the ever-growing number of First Nations youth in care, an alternate system needs to be implemented.

There is a need to take a more focused approach to those who display an increased demand for services. First Nations youth are the fastest-growing demographic in Canada, and it is time to address this issue effectively before we begin to see ever-greater increases in the number of First Nations youth in government care. At a bare minimum, I believe that First Nations youth should have their own department and/or their own advocate who will address the concerns of First Nations youth. This will also assist in the shared workload of the advocates, and will allow for greater success in advocacy for both First Nations and mainstream youth.

First Nations youth should definitely have a separate body that deals specifically with their issues. There should be the development of both northern and southern branches dealing with First Nations communities or the development of an overall branch that will deal with advocacy for First Nations youth in care. Since First Nations children account for such a large percentage of the youth in care and have their own specific needs, it would be mandatory that we need our own branch to deal with occurring issues.

We also want to develop bodies that can and will completely represent the needs and concerns of First Nations youth in Ontario. First Nations people are a very unique and very important aspect of Canadian society. We have been assimilated throughout our history, and we don't need another process that just groups us with everyone else. We're going to neglect the true needs and concerns of First Nations children and youth if this process continues like this. It also hinders our ability as First Nations people to govern our own affairs and have some kind of say over our children and what happens with them.

I believe that all children should have access to an advocate: someone who is specifically geared to their needs. Nobody should be excluded from this process because they haven't yet found their way into the system. I wouldn't encourage an arrangement that allows other families to become part of the issue due to lack of early intervention and advocacy for these at-risk families.

If the advocate is going to be solely responsible for only those kids in care, I would demand to see other legislation that pertains outside of those children who fall under Bill 165 and the job description of the child and youth advocate.

**The Chair:** Thank you for that presentation, Sasha. We have about one minute per party, starting with the Conservative Party.

**Ms. MacLeod:** You done good, kid; you did really well. I hate to disappoint you, because you did so well, but unfortunately the answer to most of the questions you asked for a yes or no answer to is no. Unfortunately, there are kids who are going to be excluded from this piece of legislation. Unfortunately, right now this piece of legislation does not include a deputy advocate for aboriginal children. Unfortunately, there is no other legislation that would protect these kids.

But I just want to say something to you, young lady. You came in here today with some ideas that some pretty high-priced people in this province came in with on their own. To do this by yourself in front of a lot of suits and on TV, you did pretty good. I want to read this to you. It came from a lawyer from downtown Toronto: "On a general level, if it were up to me, I hoped to see an Ontario children's bill of rights with the children's advocate acting as the oversight for implementation of a government-wide commitment to the protection of our children." If I had it in front of me, I would read Judy Finlay's submission—she's the current chief advocate, who indicated to us that she believes there needs to be a deputy advocate responsible for aboriginal children, and you came up with that. You and your organization need to be applauded for coming here today with a well-thought-out dissertation on this piece of legislation. I just want to applaud you. Thank you very much.

**The Chair:** Thank you. We'll move on to the NDP.

**Ms. Horwath:** I want to thank you for having the courage to come here and sit by yourself and explain to us all of the concerns that you have. I think you've touched on some of the issues that I have spoken to as well already in regard to this bill, particularly over-representation of First Nations children in our child welfare system and in, unfortunately, the youth criminal justice system and the criminal justice system, and the fact that we need to deal with the systemic problems, the system problems, that make that happen.

If this all goes well and we get an independent child advocate, the good news is that that person is charged with looking at the systems and identifying what's failing our kids in the systems that we have already. So I think there's some hope there, but I agree with you wholeheartedly. I have been pushing for, and will continue to

push for, the inclusion of either a deputy advocate or an advocate responsible for First Nations communities who is from those First Nations communities and is able to appropriately meet the needs of kids from First Nations communities. It's extremely important, and I'm glad you've reinforced it today. Thank you.

**The Chair:** We'll move on to the Liberal Party.

**Mrs. Van Bommel:** I also want to add my thanks to you for coming in. I think certainly one of the reasons that we do public hearings is because we need to hear from people like yourself. We go into a process of clause-by-clause where we do amendments, and I think you've given us all an opportunity to give some serious thought to those types of amendments. Thank you very much.

**Ms. MacLeod:** Mr. Chair, just quickly, our presenter asked several questions today. Could we take it upon this committee to have those questions answered to send to her, or at least direct the minister's office to respond to her?

**The Chair:** You can ask the minister. I don't know if that has to be put to a motion or not. You can ask.

**Mr. Zimmer:** I spoke to this this morning. The committee hears from witnesses, it goes down in Hansard, and Hansard goes to the minister. But the committee doesn't direct people, ministers or deputy ministers, to respond.

**Ms. MacLeod:** It just seems to me that this has been an abysmal disappointment as a process for a bill that's dealing with children and youth. We've got a young lady before us who has asked several questions pertaining to this piece of legislation which will impact her generation. If we're unprepared to provide her with the answers that she deserves, then we have failed in this process. I think that we have to, as a committee, take a leadership role.

**Ms. Maracle:** Thank you very much.

**The Chair:** Thank you. There are two options that you have, Ms. MacLeod. You can ask those questions of the minister by getting a copy of the transcript, or you can put a motion forward. I would say that if you want to put the motion forward, it would be up to the committee to decide whether or not to have a letter sent to the minister from the committee.

**Ms. MacLeod:** I move that the committee draft a letter, including the transcripts, to the minister for her response to this young lady.

**The Chair:** Any discussion?

**Ms. Horwath:** I'll second that.

**Mr. Zimmer:** That's something that happens through the public service, for a minister to answer questions.

**The Chair:** It's just a request; that's all it is.

Any further discussion or debate? We know what the motion is. All those in favour? Opposed? It does not carry.

**Ms. Maracle:** I'm sorry. May I ask another question, then? How would I go about—

*Interjections.*

**The Chair:** I'm under a lot of pressure from the members here to keep—

**Ms. MacLeod:** She and I will draft a joint letter, with your transcripts, to the minister, and we'll see if we get a response. Don't hold your breath.

**Ms. Maracle:** Thank you.

**The Chair:** I was wondering, then—thank you very much. You're here on behalf of the Ontario First Nations Young Peoples Council?

**Ms. Maracle:** Yes.

**The Chair:** Okay, thank you. And as far as the Chiefs of Ontario Youth Group?

**Ms. Maracle:** That is the Chiefs of Ontario Youth Group.

1820

**The Chair:** It's the same. Okay. Thank you.

Those are all the deputations listed here, but, members of committee, I have one quick question. There is a person present today who is on for tomorrow, but she flew in today and has been present all day. She is with the First Nations Child and Family Caring Society of Canada. Her name is Cindy Blackstock, executive director, and I see her there smiling in the second row. She thought she was to be heard today, not tomorrow. With the committee's consent, can we give her 15 minutes? Is that okay?

**Ms. MacLeod:** I'm fine with that.

**The Chair:** Thank you. This will be the last deputation of the day, and it means one less deputation tomorrow.

#### FIRST NATIONS CHILD AND FAMILY CARING SOCIETY OF CANADA

**Ms. Cindy Blackstock:** Thank you, committee members. I apologize for the mix-up in the day.

This is the province with the highest population of First Nations people in the country. It also is the province with the highest rate of increase of First Nations children in care in the country, by a factor twice the national rate. Between the years 1995 and 2001, the rate of First Nations children going into child welfare care in this province saw a 164% increase. The national average was 71.5%. This province is also home to the fewest First Nations child welfare agencies of any province in the country, with the exception of Newfoundland and Prince Edward Island. There have been very few examples of provincial governments who have been less supportive of First Nations communities in child welfare than the province of Ontario has.

I'm here with a national organization that provides research and policy support to First Nations. We're not a representative organization. Our words that I'm about to offer are really to be considered a backdrop to the more important opinions that will be offered by Ontario First Nations and by our talented policy-makers, both young and old, an example of whom you just heard from.

I'm going to make three submissions to you regarding the child and youth advocate. The first is that the issues with regard to First Nations, the breaches of their child rights, are so egregious and unique that a mainstream system would be unable to respond to them adequately.

The second is that although First Nations children experience egregious rights violations to a degree not experienced by other people, and this of course has been recognized by UNICEF Canada, the United Nations and, at various points, the government of Canada itself, they actually have less access to rights redress systems than any other Canadian, and I'll get into detailing what that is. Finally, I'm going to sum up with some recommendations about going forward.

The first is really about the rights violations: Why are they unique? Why do we need a First Nations officer at all?

Of course, you've heard from Sasha and from others about the difficulties with First Nations. I think one of the most important things to keep in mind, or something I remind myself, is that we're fighting for rights that are most often realized by other Canadians. For example, one in every six First Nations does not even have safe water to drink. That's something that we've normalized in this country. You can live three days, as a child, without water. Yet we have First Nations communities that are so poorly funded by the federal government—and the provincial government stands at the sidelines—that children are not even given the right to life. We, as a nation, stood up in an uproar when Vancouver experienced some turbulent water back in early February, closing down a Starbucks chain for a week, but for many people this is a daily struggle to retain even basic dignities. So our rights discussion begins with clean water. It begins with adequate housing for children. It begins with having the right to food. And then we move on to other things about the right to be heard.

The other piece is that we find ourselves at an intersection between two governments: the government of Canada and the government of Ontario. That creates some unique rights violations that happen with jurisdictional disputes where children are caught between these governments as they decide who should pay for what. That happened with regard to Jordan's Principle, which you can read more about here. But we have found in our national research that it is a regular occurrence that First Nations children are denied or delayed receipt of services because of jurisdictional disputes between the federal and provincial governments.

Now, what does this mean for a child advocate? Well, if the child advocate only has the power to intervene in cases regarding the provincial government, with no protocol with the federal government, they are unable to intercede in some of the biggest rights violations facing indigenous children in this country.

The other piece it's important to mention is where this also manifests is with this idea of inequitable rights violation redress systems. As a child in Ontario, if I had a rights violation, I could go to the child and youth advocate, and they would have the power over the provincial government to provide meaningful recommendations. I could go to the Ombudsman. I could go to the Auditor General. I could go to the Human Rights Commission. But if you're a First Nations child on-reserve, none of those bodies have any jurisdiction over the federal gov-

ernment. So your option is to go to court. And 53% of aboriginal children live below the poverty line and have no access to that type of dispute resolution mechanism.

Not only are these kids experiencing the most egregious rights violations; the voice and access to meaningful bodies to be able to speak up on their behalf have been taken from them. So when we look at the child and youth advocate, there's a number of key things that need to happen. One is that in this province there has not been the type of prioritizing of the rights violations of First Nations children that there should be, given the circumstances. In my view, this has been an issue that at best has filled the back chapters of committee report, and has been a consideration that has not been acted on with the severity of the rights violations that have been documented time and time again by different researchers.

The other piece is that the jurisdiction of the advocate's office needs to bridge the two levels of government—the provincial government and with protocols with the federal government—because as you all know all too well, there is no ombudsman for the federal government and there is no child advocate for the federal government. And the Human Rights Act exempts anything to do with the Indian Act.

So without something at the provincial level, these children's voices and the rights violations that may result from federal government policy simply go unheard. The way to get at that is really, I think, to prioritize a First Nations-controlled child advocate's office here in Ontario where First Nations from Ontario take the lead in design of that mechanism.

Some people would say that that seems to be too much. But I would say to you that given the rights violations and the lack of redress and progress in restoring those, there is very little argument to say that the current system or enveloping this package within a mainstream framework would be successful.

The other is that this child advocate needs to have the obligation to make binding recommendations on government. There has been a huge gulf between the rights as documented in law, legislation and policy for First Nations children and the realization of those rights. Without teeth, this child advocate will be able to do nothing more than make the best recommendations possible, but the governments will be at their whim to either ignore those recommendations or to take them up. Of course, we know from the province of Quebec that the child advocate is able to make binding recommendations on the provincial government.

The other, final thing is that far too often, and maybe it is because for most Canadians their basic rights have already been realized, rights redress systems have been individual in nature. If my rights are violated as an individual, I can therefore file an action. But the case history of policy, both provincial and federal government in Ontario, regarding First Nations is that these rights violations are systemic. They don't affect just one child; they affect thousands of children. It is critical that the child and youth advocate in Ontario have the ability to address these types of rights violations.

It is unacceptable, in a country like Canada, that only 0.5% of non-aboriginal children are in care versus 10.23% of status Indian children. There has never been a time in this country when there have been more kids in child welfare care than at this moment as we sit here, including during residential schools.

I have provided a written brief and I would encourage you to really embrace the submissions coming forward by the Ontario First Nations regarding this important matter. I thank you for your time.

**The Chair:** There's about two minutes per party. We'll start with the NDP.

**Ms. Horwath:** I'm sure you've listened to as many of the deputations as you were able to hear since you arrived. There has certainly been the idea discussed about the possibility of either a co-advocate or a deputy advocate or a separate piece to address First Nations communities particularly, considering the cultural issues that need to be addressed as well as the statistics, which are horrifying, that you've raised with us yet again. Is that something you support? Do you see that as being a step in the right direction, as something you would advocate for?

1830

**Ms. Blackstock:** My first preference would be one that actually is a separate body managed and controlled by the Ontario First Nations. We have seen other efforts to create deputy directors. But I think it's important that you understand that that's a subsidiary type of position.

**Ms. Horwath:** No, I understand. That's why I said "co."

**Ms. Blackstock:** There are some compromises there. The other option too for the committee to consider is the New Zealand model, where they actually have a Maori woman who's the commissioner for all children in the country of New Zealand. I think that would be a wonderful statement on behalf of the government of Ontario, to appoint a First Nations, Metis or Inuit person to oversee the well-being not only of First Nations, Inuit and Metis children, but of all children in Ontario. I think sometimes we default to think that the child and youth advocate who would be the non-aboriginal deputy would be someone who would be non-aboriginal. I think we need to move to a place where we really embrace the ability and capability of First Nations folks to make a contribution to all children in Ontario.

**The Chair:** Thank you. We'll go to the Liberal Party.

**Mrs. Van Bommel:** Thank you very much. You've given us a lot to think about. I think for me the stumbling block constantly on the issue of First Nations children is that jurisdictional argument. You talk about having a child advocate for First Nations, but how do we make—so many of the things that happen in the bands in my riding are jurisdictional things. I talk to the chiefs, and there are things I can do from the provincial aspect, but there's always that federal thing. I don't know how to make certain things binding on the federal government. What are your suggestions on that?

**Ms. Blackstock:** I think one of the most important things is to acknowledge that Ontario child welfare

legislation applies to every child in Ontario. It doesn't say that the legislation applies only if the Department of Indian Affairs or the federal government meets its obligations, and yet in real life that's how we treat it. We only provide the services if the federal government steps up to the table. In my view, that's a breach of the child welfare legislation.

What we've done is we've created nationally a principle called Jordan's Principle, which would say that in those issues of jurisdictional dispute we are going to act in a way that best represents the values of our nation—our fundamental commitment to freedom, equality and dignity and our high value for children—in that, when a jurisdictional dispute develops around services that are otherwise available to other Canadian children, the government of first contact pays the bill and then they figure out the jurisdictional dispute later. It's a child-first policy. It's consistent with the Charter of Rights and Freedoms. It's consistent with the Ontario child welfare act. I can see no reason why we wouldn't implement it. Our agency has costed it out. It would be a cost-neutral strategy for all provincial and federal governments to implement.

**The Chair:** Thank you. Finally, to the Progressive Conservatives.

**Ms. MacLeod:** Thank you, Mr. Chair. I guess I'm last but not least.

I want to say thank you very much for being patient today and for waiting to give us your deputation right now.

I want to really say I appreciate your final comments with respect to children's welfare. What the members opposite don't seem to understand—and they didn't when something happened down in my neck of the woods in eastern Ontario—and it was not with First Nations kids; it was children of military men and women at the Phoenix Centre in Petawawa. This government wanted to abdicate its authority because it didn't have the jurisdiction. Of course, they weren't the ones sending the parents to Afghanistan, so therefore they shouldn't have to provide the mental health services for these kids. That's not the right way to think when you're looking at children and youth in this province. So I just wanted to say I appreciated your comments.

Although it was a different experience, I think you hit the nail on the head. If these are children and youth in the province of Ontario, it is the government of Ontario that has to make sure that they are protecting those children in the child welfare system and the children's mental health system. I appreciated your comments, obviously. We've talked a lot about how we should best serve our aboriginal children in Ontario, and I appreciate your comments. I just wanted to add that, say thank you, and obviously thank the committee for allowing you to speak.

**Ms. Blackstock:** Thank you very much.

**The Chair:** Thank you for your presentation.

We stand adjourned, committee, until tomorrow at 9 a.m., but we're in room 228.

*The committee adjourned at 1835.*





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