



Standing Committee on Legislative Offices
C/O Committee Clerk
CYAAReview@assembly.ab.ca

October 13, 2016

Dear Committee Members,

Subject: Review of the Child and Youth Advocate Act

Youth Justice, City of Calgary is pleased to provide the following written submission for your consideration:

Age Limits

It is agreed that 27 is likely a suitable age for individual advocacy for youth involved in the youth justice system who are in custody as this aligns with maximum sentence guidelines. However, it is suggested that extending individual advocacy to all youth with justice involvement to align with the age of 27 would be valuable. An increasing number of youth who continue to be involved in the youth justice system, being supervised by Probation services in the community, are older than 18. This group primarily consists of youth who have had significant or long term youth justice involvement, youth who are under the supervision of Conditional Sentence Orders, Community Supervision Orders or Probation that is ordered to follow lengthy periods of time in custody and youth who have been charged or sentenced several years after the originating offence occurred.

Designated Services

The Child and Youth Advocate Act allows the Child and Youth Advocate's Office (CYAO) to provide appropriate services to children and youth requiring advocacy, however several areas have been identified where the Child and Youth Advocate Act could expand its designated services, including: Alberta Review Board under Solicitor General, Mental Health Act, Protection of Children Abusing Drugs Act (PChAD), Immigration and Refugee Protection Act, and Alberta Education Act.

Alberta Review Board- Solicitor General

Within the last year there has been an increase in the number of cases where youth are found to be "Not Criminally Responsible" or "Unfit to Stand Trial". In these instances the matters would be referred to the Alberta Review Board, which is also under the Solicitor General. This area has been identified given the complexities of the mental health issues these youth face and

of the systems involved. Additionally, it is felt youth may need a voice within the Review Board system where they are mandated to mental health treatment, which may include either involuntary community based treatment or confinement in a mental health facility.

Mental Health Act

With the increasing complexity of mental health issues children and youth are facing we have seen a dramatic increase in the number of children and youth involuntarily admitted to hospital under the Mental Health Act, primarily under Forms 1, 8 and 10. Given the involuntary nature of this process, children and youth are often not provided with a voice, either in determining if an assessment is necessary or to ensure appropriate assessment and treatment is received.

Community Treatment Order-a specific example where advocacy may have been beneficial is a case where a young man is ordered to receive medication through injection to assist him to manage psychosis, however the family is not in a position financially to pay for the medication.

Addiction Services: PChAD and Custody

In recent years youth services staff with The City of Calgary have observed a concerning shift in drug use by youth, specifically an increase in the use of methamphetamine and fentanyl, and an increase in the numbers of youth diagnosed as having drug induced mental illness. In response to this shift, expanding the Child and Youth Advocate Act to include PChAD (Protection of Children Abusing Drugs Act) would be invaluable, both in advocating for individuals under a PChAD order and to address some of the systemic issues, including increasing access to PChAD orders, timeframes for which youth can receive treatment under these orders, and ensuring appropriate programs are available.

For youth involved in youth justice, currently in Alberta there is one program available for males with a sentence of open custody to access addiction treatment and no current programs available for female youth.

Immigration and Refugee Protection Act

Given the increase in children and youth immigrating to Canada with their families, the expansion of the Child and Youth Advocate Act to consider this population of children and youth may be valuable, specifically to ensure children and youth under this Act are aware of their rights and to support them to address individual and systemic issues related to immigration. Many of the new immigrant youth we support have come from war torn countries and refugee camps where they have experienced significant trauma and the availability of culturally appropriate mental health services is becoming an increasing concern.

Alberta Education Act

Specific areas of concern under the Alberta Education Act include the formal process of School Attendance Orders and the suspension process. Within schools, individual students would benefit from advocacy to ensure suitable learning assessments, plans and supports are put in place specifically for children and youth requiring mental health, behavioral or disability services.

Within this context greater support is also required for the increasing number of immigrant youth requiring additional supports including interpreters.

Role and Function

Inter-provincial travel presents significant issues for children and youth and service providers, whether voluntary or involuntary. Increasing the CYAO role and function to be inclusive of inter-provincial issues would address breakdown between systems and ensure that appropriate services “follow the child”.

Another area the CYAO may play an increased role would be prevention, not just a response to individual or systemic concerns. It is felt the CYAO could be a key contributor to issues such as youth and family homelessness.

Powers

At this time no recommendations are being made related to the power of the Child and Youth Advocate Act, however increasing the knowledge to the public, specifically to vulnerable citizens, of the powers, roles and functions of the CYAO would be beneficial.

Information Protection

It is agreed that the CYAO should not be compelled to give evidence in legal action. However, increasing the ability of the CYAO to share or disclose information specific to a youth’s individual case, may be valuable in promoting or ensuring appropriate supports and services are put in place. Where investigations occur, having access to results or recommendations is also seen as a way for continued program growth.

An area for clarity is the need to highlight how the Child and Youth Advocate Act aligns with the Children’s First Legislation.

Investigations

The CYAO has a role to play specific to investigations for youth involved in the youth justice system, not just for youth in open and secure custody, but also for youth who are in the community, even if limited to youth in community under a custodial sentence, including Conditional Sentence, Community Supervision or Deferred Custody.

A question to consider is if there is a role for the CYAO to initiate an investigation when youth involved in the justice system become involved in a serious presumptive offence, specifically if it is felt that system issues may have been a contributing factor to the youth’s involvement in the offence.

If the Child and Youth Advocate Act is extended to include other legislated programs, it is felt the ability to conduct investigations should also be extended to these new areas, including, Alberta Review Board, PSECA, PChAD, Mental Health Act, Immigration and Refugee Protection Act and Alberta Education Act.

Currently it is not clear how the investigation process is initiated; clarity around the process and responsibility to report would be helpful.

Reporting

The reports contain sufficient information, however it is felt the distribution of these reports could be more widely available, giving consideration to how vulnerable citizens may access this information.

Other

Referral Process: There are many situations where it has been felt the CYAO would be a valuable support to youth however given some youth's limitations they are not able to follow through with the current referral process. It is recommended adapting the referral process to allow professionals and others to make a referral whereby an Advocate would then follow up with the youth to assess suitability and interest would be an asset.

Indigenous Youth: Given the high rate of Indigenous youth we see in the Youth Justice System it is recommended the Child and Youth Advocate Act looks at how to best extend the Act to ensure appropriate advocacy and support is provided to this population.

Submitted by:

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