

From: [REDACTED]
To: [CYAA Review](#)
Cc: [REDACTED]
Subject: OCYA Review. [REDACTED]-Submissions
Date: Thursday, October 13, 2016 8:14:00 PM

Part A: Submitter Contact Information

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City/Town *	Edmonton
Are you 18 years of age or over? * <i>Submissions from minors will be accepted</i>	xxXYes No
Would you like your submission to remain confidential? * <i>Submissions from members of the public will remain confidential upon request; otherwise, they will be made public with the names of submitters and all third-party personal information removed.</i>	Yes XNo

Part B

The Standing Committee on Legislative Offices would like to hear from you. The questions below are meant to assist you in creating your submission. Please answer only the questions that you feel are relevant. Each question includes a link to related information in the [discussion guide](#) for background.

1. Age limits: under the Act services are provided to those in different age groups.

[\[+\] Section of the guide dealing with age limits](#)

[\[-\] Section of the guide dealing with age limits](#)

There are various age limits in which the Advocate can provide services to a child or youth depending upon the government service the child or youth is receiving and the service they require from the Advocate.

- Individual Advocacy: under 24 years for youth receiving support and financial care; otherwise, 18 years for other child intervention services. Up to age 27 years for youth in youth justice custody; otherwise, 18 years for other youth justice involvement.
- Legal representation: up to 18 years.
- Investigative reviews: up to 26 years for youth who received support and financial care up to age 24 years and their death was within two years of receiving this service. Otherwise, up to 24 years for youth with intervention involvement and up to age 27 for youth in youth justice custody.

The *Child and Youth Advocate Act* defines “child” as

(i) a person under the age of 18 years, including a youth, who is receiving or is seeking to receive a designated service, or

(ii) a person under the age of 22 years who is receiving support and financial assistance under section 57.3 of the *Child, Youth and Family Enhancement Act*, [R.S.A. 2000, c. C-12 (s. 1(c))].

“Youth” means a child who is 16 years of age or older.

Section 9(4) provides an exception to the definition of “child” by stating that the Advocate cannot appoint a lawyer for a young person who is receiving assistance under section 57.3 of the *Child, Youth and Family Enhancement Act*.

Are these age limits appropriate? Please discuss your answer and provide suggestions if possible.

In general, yes. However; The OCYA is also mandated to work with young persons involved with the Youth Criminal Justice Act. Under the YCJA, young person can be held criminally responsible at the age of twelve onwards. I have facilitated many referrals to the OCYA with youth/adults mostly eighteen or nineteen years of age, but some as old as twenty six years of age. Though some may question what role the OCYA may have with young adults in adult correctional facilities, I feel this aspect needs to be solidified and entrenched. What I see is once a young person is moved to an adult correctional facility, even though still under the purview of the youth justice system, which has a focus of rehabilitation and reintegration. My experience has been adult correctional facilities ignore this aspect, and there is a significant need for the OCYA. The Ombudsmen, has a role that is more systemic in nature and not applicable to the issues those serving youth sentences have. it is critical that for the many youth sentenced under the YCJA(Many Indigenous),within adult facilities in Alberta, that they have ongoing access to OCYA.

2. Designated services: the Act permits the Advocate to provide services only to children and youth receiving designated Government services.

[\[+\] Section of the guide dealing with designated services](#)

[\[-\] Section of the guide dealing with designated services](#)

The Child and Youth Advocate Act defines “designated service” as

(i) a service under the Child, Youth and Family Enhancement Act, other than an adoption service (under Part 2 of that Act),

(ii) a service under the Protection of Sexually Exploited Children Act (PSECA), or

(iii) a service provided to children in the youth criminal justice system (s. 1(e)).

This means the Office of the Child and Youth Advocate provides individual advocacy to children and youth receiving child intervention, PSECA and youth justice services.

The OCYA provides legal representation to children and youth for child intervention and PSECA matters.

Does the Act permit the Advocate to provide appropriate services to children and youth? Should the Advocate provide services to children and youth who are receiving Government services other than what is currently indicated within the Act? Please discuss your answer and provide suggestions if possible.

Yes, I strongly recommend that the OCYA have broadened powers to include children and youth (Up to twenty four years of age), that are involved with Family Supports for Children with Disabilities (FSCD). Let me be clear, in my dealings with over twenty thousand youth, over twenty years in Youth and Family court, the most vulnerable and most impacted are children/youth with disabilities. I was shocked to actually see the lack of oversight, policy and legislation in regards to how these children are housed and taken care (Especially those placed in group homes and institutions). Most group homes are for profit, and there is actually no minimum requirements for accreditation such as criminal record checks for staff, first aid training etc. The OCYA in my opinion should have the ability to focus on these children/youth. Many cannot articulate the difficulties and how this system impacts their lives. I would also like to see the OCYA involved with children and youth under the Mental Health Act. Again, for many of the same reasons stated.

3. Role and Function: the Act creates the role and functions of the Advocate.

[\[+\] Section of the guide dealing with the role and functions of the Advocate](#)

[\[-\] Section of the guide dealing with the role and functions of the Advocate](#)

The *Child and Youth Advocate Act* creates the role, functions and general powers of the Advocate.

Section 9(1) states that the role of the Advocate and his office is to represent the rights, interests and viewpoints of children. Section 9(2) enables the Advocate and his Office to do their work. The exact wording of section 9(2) is as follows:

In carrying out the role of the Advocate under subsection (1), the Advocate may,
(a) communicate and visit with a child, or with a guardian or other person who represents a child;

(b) on the Advocate's own initiative, or at the request of a child, assist in appealing or reviewing a decision relating to a designated service¹;

(c) appoint, or cause to be appointed, lawyers to represent children with respect to any matter or proceeding under the *Child, Youth and Family Enhancement Act* or the *Protection of Sexually Exploited Children Act* or any matter or proceeding prescribed by regulation²;

(d) if, in the opinion of the Advocate, the investigation is warranted or in the public

interest, investigate systemic issues arising from

(i) a serious injury to a child who at the time of the injury was receiving a designated service [under the *Child, Youth and Family Enhancement Act*, other than an adoptive service];

(ii) a serious injury to or the death of a child who at the time of the injury or death was receiving a designated service [under the *Protection of Sexually Exploited Children Act* or a service provided to children in the youth criminal justice system;³],

(iii) the death of a child who at the time of the death was receiving a designated service [under the *Child, Youth and Family Enhancement Act*, other than an adoptive service], or

(iv) the death of a child who at any time during the two-year period immediately preceding the death received a designated service [under the *Child, Youth and Family Enhancement Act*, other than an adoptive service];

(e) participate in processes in which decisions are made about children;

(f) promote the rights, interests and well-being of children through public education;

(g) undertake or collaborate in research related to improving designated services or addressing the needs of children receiving those services;

(h) provide information and advice to the Government with respect to any matter relating to the rights, interests and well-being of children;

(i) perform any other function prescribed in the regulations.⁴

¹ Section 9(3) provides that “[s]ubsection (2)(b) does not apply in respect of a designated service referred to in section 1(e)(iii)” of the Act; that is, a designated service provided to youth in the criminal justice system.

² Section 9(4) provides that “[s]ubsection (2)(c) does not apply in respect of a child referred to in section 1(c)(ii)”; that is, a person under 22 years who is receiving support and financial assistance under section 57.3 of the *Child, Youth and Family Enhancement Act*.

³ Section 9(5) provides that “[s]ubsection (2)(d)(ii) does not apply in respect of a designated service referred to in section 1(e)(iii)”; that is, youth in the criminal justice system – “unless at the time of the serious injury to or death of the child, the child was in open or secure custody.”

There are currently no other functions prescribed in the regulations.

Should the role of the Advocate stay the same? Is the Advocate able to do enough or should the Advocate be able to do more? Please discuss your answer and provide suggestions if possible.

I believe the Advocate's role is satisfactory. We must be careful that the OCYA remain neutral and not involved in the actual decisions that impact children/youth. I would like them to utilize their legislative authority more often; particularly holding inquiries, and vocal about injustice and gaps in services. I want to reinforce that the OCYA does an exceptional job! It is important that funding for this office be relevant to ensure not only broad systemic issues, but individually, for that twelve year old girl who is homeless, the five year old boy in a group home who wants to see his mother, the sixteen year old young offender whose family lives eight hundred KM away, the seventeen year girl who has been sexually exploited. These children and youth need an advocate by their sides supporting them, empowering them that they ALL have value and a voice.

4. Powers: the Act specifies the powers of the Advocate.

[\[+\] Section of the guide specifying the powers of the Advocate](#)

[\[-\] Section of the guide specifying the powers of the Advocate](#)

The powers of the Child and Youth Advocate are set out in the Act as follows:

- Section 8(1): set up the Office of the Child and Youth Advocate.
- Section 10: delegate to others most of the powers, duties and functions of the Advocate under the Act.
- Section 13: broad access to government information that may be used for advocacy and investigations.
- Section 14: specific powers relating to investigation including the powers, privileges and immunities of a commissioner under the *Public Inquiries Act*.
Does the Act provide the Advocate with sufficient powers to conduct the roles and functions set out in the Act? Are other powers necessary? Please discuss your answer and provide suggestions if possible.
I am not certain if this exists, but would like the OCYA to have the ability to see any and all documents, associated with children/youth in care and/or involved in the YCJA. I would like the OCYA have access to police notes and data bases such such as JOIN and CPIC. I would also like the OCYA power to compel persons to testify, including social workers, correctional officers, Police officers, ADM, DM etc..

5. Information Protection: the Act indicates how the information provided by a child is protected.

[\[+\] Section of the guide dealing with the protection of information](#)

[\[-\] Section of the guide dealing with the protection of information](#)

The Act protects the information that is provided by a child or by someone during an investigation.

- Section 18: all information provided during an investigation is privileged (kept confidential).

- Section 20: information provided by a child to the Advocate in confidence is privileged. An advocate must not be compelled to give evidence in a legal action. Is the information provided by a child to an advocate sufficiently protected? Is the information provided for an investigation sufficiently protected? Please discuss your answer and provide suggestions if possible. **I have concerns about telephone calls and interviews being monitored by persons in a role of authority. I am particularly concerned about children/youth arrested and in custody. I would like the OCYA to have the same confidentiality privileges associated with solicitor/clients. Children do not understand their rights as well as adults, and need enhanced opportunities and supports for advice outside of a lawyer who may or may not appreciate the special needs of vulnerable children/youth.**

6. Investigations: what the Advocate can investigate is set out in the Act.

[\[+ \] Section of the guide referring to investigations](#)

[\[- \] Section of the guide referring to investigations](#)

The circumstances in which the Advocate can begin an investigation are set out in the Act.

As discussed above, section 9(2)(d) of the Act enables the Advocate to launch an investigation. If, in the opinion of the Advocate, an investigation is warranted or in the public interest, the Advocate may investigate systemic issues arising from

- A serious injury to or the death of a child who at the time of the injury or death was receiving a designated service ,
- The death of a child who at the time of the death was receiving a designated service, or
- The death of a child who at any time during the two-year period immediately preceding the death received a designated service (s. 9(2)(d)).

Powers Relating to Investigations

Section 14 of the Act sets out the powers of the Advocate when conducting an investigation. During an investigation, the Advocate has all the powers, privileges and immunities of a commissioner under the *Public Inquiries Act*, [R.S.A. 2000, c. P-39]. This includes the ability to engage the services of experts to assist in an investigation and the ability to summon any person as a witness and require them to give evidence under oath about the matter being investigated.

Should the Advocate be able to investigate the same, more, less or different issues? Do you agree with how the Act enables the Advocate to conduct investigations? Please discuss your answer and provide suggestions if possible.

I feel the advocate need to have an opportunity to participate in disciplinary boards for children and youth involved with the YCJA including sentenced children/youth. The most intrusive system we have is the justice system; however, processes we see in the child welfare system, Administrative Reviews, Child Welfare Appeals are not in the youth justice system. Children/youth have been locked in isolation for months, years, twenty three hours a day, without treatment or any sort of reintegration. Allowing the OCYA the authority and ability to intervene, represent these youth in institutions at all levels would only serve as a positive. I don't see a down side to this.

7. Reporting: what the Advocate can report is set by the Act.

[\[+\] Section of the guide referring to reporting](#)

[\[-\] Section of the guide referring to reporting](#)

The Act sets out the process of reporting following the completion of an investigation.

After completing an investigation the Advocate must make a report containing recommendations for any public body or other person the Advocate considers appropriate. The report may also address any other matters the Advocate considers appropriate (ss. 15(1)(a) and (b)).

The report cannot contain any findings of legal responsibility or any conclusions of law (s. 15(2)).

A report must not disclose the name of or any identifying information about the child to whom the investigation relates or a parent or guardian of the child (s. 15(3)).

The Advocate must provide a copy of the report to the public body that is directly or indirectly the subject of investigation and to the public (ss. 15(4) and (5)).

Do the reports contain enough information? Should they contain the same, more or different information? Please discuss your answer and provide suggestions if possible.

I cannot comment on this aspect.

8. Other: please comment on any topic related to the Act not addressed by this discussion guide.

The OCYA is for many children and youth, their only support. I fully support the OCYA efforts and the role they play in our community. Alberta is lucky to have a well funded OCYA that deals with systemic and individual issues. I am more than happy to present my thoughts in person if you choose. Thank you for taking the effort and consideration to review my suggestions.

Best

[REDACTED]

Youth Worker, volunteer, and citizen of Alberta

Part C: How did you hear about this review?*

Newspaper

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CFWE Radio

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Instagram

Other:

*Required field

Part D: Submit