



# Office of the Child and Youth Advocate Legislative Review

Submission by the John Humphrey Centre for Peace and  
Human Rights (JHC)

**October 14, 2016**

These recommendations are the result of collaborative work with the Office of the Child and Youth Advocate (OCYA) on systemic issues faced by Indigenous, newcomer, refugee, and immigrant youth in Alberta. The overrepresentation of Indigenous children in the child welfare system in Alberta, and the increasing numbers of newcomer children that are requiring the services of the OCYA are the starting point of the collaboration and research work that support the information and recommendations in this document.

Over the past year, JHC has facilitated focus groups with 5 Indigenous communities in St. Paul, Edmonton, Rocky Mountain House, Pincher Creek; 3 newcomer, immigrant, and refugee sessions in Edmonton and Calgary; and, 7 sessions with OCYA staff in order to understand how group expectations, experiences, and recommendations can help shape the OCYA's mandate, policies, and practices to better address the needs, experiences, and systemic challenges of these communities.

## Key Messages:

- The Truth and Reconciliation Commission calls for the integration of the United Nation's Declaration on the Rights of Indigenous Peoples (UNDRIP) directly into policy and legislation. We recommend that the Government of Alberta ensure that the OCYA has a responsibility to continually work towards the realization of rights for indigenous children in the province, particularly for those under provincial guardianship.
- Articles 7 and 8 of the UNDRIP refer to Indigenous individuals' right to life, integrity, liberty and security of person. Furthermore, the second part of article 7 recognizes the collective right of Indigenous peoples to live in freedom, peace and security as distinct peoples. Article 41 requires governments to work with Indigenous peoples to establish ways of ensuring Indigenous peoples participate

in making decisions on issues that affect them. Making up 70% of children and youth in care, Indigenous communities' participation in the OCYA governance should be ensured.

- The Truth and Reconciliation Commission Report demonstrates how the historical separation of indigenous children from their families have affected the integrity and security of individuals and communities as a whole. Therefore, in order to protect Indigenous children's rights, the OCYA must also integrate family/kinship and collective rights into their understanding and practice of advocacy.
- We need a stronger OCYA that is grounded in new ways of building relationship. One that is locally defined through collaboration with family and community.
- The OCYA needs to have clear separation from Child and Family Services. Furthermore, the OCYA needs an enhanced mandate to hold child and family services provided by the province accountable, and support remediation when children and families have suffered as a result of their involvement in the care and justice system.
- OCYA should have a role in enabling communities to self advocate.

The following issues and recommendations come from a collective voice of those engaged in conversation.

## **Outcomes of Sessions with Indigenous Communities**

### **Issues and community recommendations**

- **OCYA's mandate and objective:** The OCYA was created to help children/youth who are finding themselves in serious situations - how are we helping them if we wait until they're already receiving services or seriously injured?

Recommendation: Give the OCYA supervisory power over Child and Family Services (CFS) and continue building on their work to implement the UNDRIP and TRC calls. Create clear links within the OCYA systemic investigation, research and advocacy department to proactively prevent individual losses and injuries, to remedy systemic discrimination, and to advocate for necessary preventive and remediation services.

- **Governance:** Indigenous voices should be present at all levels in the organization; separation between CFS and OCYA has to be clear.

Recommendation: Indigenous people should sit on the board to oversee and on the floor to recommend and advise on best practices; create an OCYA and FNMI communities group to work together with indigenous children (ICYA Indigenous Children and Youth Advocate)

- **Prevention work is paramount for the wellbeing of the children:** we should protect the family; programs for women mainly young women with no skills for parenting; create spaces for parents to start healing (coaching, mentoring and support); support a Kookum (grandmother) swat team to intervene when police are called to household in crisis; change the focus - which is currently one of investigation- from reactive to proactive -why wait until a child dies?; Many of the Truth and Reconciliation Commission's Calls to Action have this preventive angle.

**Recommendation:** support parent education; work with the family rather than just working with the child in order to protect the child. OCYA should be present in every situation of apprehension to supervise CFS and offer immediate service to children. The OCYA should be doing more investigation on systemic issues and advocating for well funded, Indigenous run/oriented preventive programs that run in-reserves and off-reserves.

- **Systemic advocacy:** The majority of Indigenous children who grow in foster care do not learn the tools to deal with systemic discrimination. Non-Indigenous foster parents do not have the lived experience or tools to equip these children to protect themselves from what society teaches them about "being Indigenous in Canada". Most of those society teachings are negative stereotypes and children end up rejecting their heritage without learning about it. That destroys families and communities and advances assimilation.

**Recommendation:** OCYA should do a full cost analysis that compares foster care costs vs preventive programs that support families and communities; advocate for young parents whose children were taken (many young parents have no support and are still children); include in the OCYA's responsibilities to oversee foster care; take trauma and healing approaches in practice.

- **Building relations:** Through building relations with communities' workers and OCYA, the OCYA will understand Indigenous ways of family, parenting, the importance of land and nature, ways of building relationships, and systemic problems. Staff need to spend time in communities. Connect with agencies that might support OCYA's work - the Friendship Centres and schools are critical

assets in this building relations. It is key to incorporate family and community rights in their framework; in the circles of responsibility around a child, the family is at the core. Move towards supporting the core family unit to address the root cause of their situation; trauma, poverty, disparity. Parents are scared of losing their children, they do not talk or demand anything from CFS because they are scared.

Recommendation: Decentralization of OCYA services is urgent; it will help in building relations, accessibility, and staff understanding of community, and family realities. OCYA has to work in collaboration with Indigenous agencies and communities. This can not be done in the two main urban centres.

## **Outcomes of Sessions with Immigrant, Newcomers, and Refugee Communities**

### **Core Issues Highlighted by Community**

- Parents do not understand child intervention or justice and are too afraid to engage out of fear of losing other children. Communities are fed up and there are a lot of trust issues. Families are afraid of correcting/disciplining children for fear of child intervention.
- Working in interest of child or family is a big challenge. It is not just about the child. The family is at the core. There is a difficult balance of child vs. family protection in the care system.
- Confusion over responsibility of parents in this culture and feel uncertain of how to support their children.
- Racism - there is misinterpretation of communication style between family and child. Parents don't often understand racism so they will blame the child.
- Language Barriers create issues with access to information. They can't even make the call to OCYA.
- System is challenging to navigate - couldn't imagine if in a different language; so many loopholes and legalities.
- People aren't listened to in child intervention.
- Caseloads are too high. Don't have time to be preventative. Turnover of social workers is not conducive. A lot of them are also new graduates. Education level and turnover is a systemic issue.
- Language of child intervention is a problem. Scares community and needs to be softer. Plain language movement around disability as an example may be helpful.
- Families get stuck waiting for documents. This becomes frustrating for kids.

- When see police are afraid. Think they are in trouble.
- Access to information - different definitions what access to information means. If not legal guardian, can't access. So if kinship care, important information isn't communicated (e.g. mental health issues). If don't know 'code' or acronyms - hard to make headway.
- Group homes - Boys and girls living together - unsafe; peer pressure in group homes re: cultural identity.
- Identity piece is challenging at the young age. The system tries to tell you who they think you are ("in Canada you do...") and is patronizing. It results in kids rebelling in awful ways or just putting head down. Don't belong - "in between". Kids get caught - community and system trying to define what supposed to be. The community also then has perceptions of you - "you're a bad kid". We need to allow growth. Challenges of belonging.
- Barriers to natural advocates - We need help and supports; witnesses. Not being able to support our community creates tension and fears. System does not allow the informal community practises that need to happen. It creates alienation and fear.
- Over-reliance on larger organizations and lack of support to grassroots. Hours of operation of organizations creates barriers to access services. Grants/resources are directed primarily to larger organizations. Grassroots immigrant and refugee groups need to be supported. Government need to empower ethnocultural communities. These are the agencies that support after hours - they are carrying the weight of the community's needs. Lack of supports.
- Very few immigrant foster placements - push to move to kinship. The process is daunting - it would have more families if it was less invasive. The focus needs to be on monitoring, compliance and remedy of standards in foster care should be where the priority is. Foster care also needs to mandate culture.
- Everyday struggles of poverty: Families don't have capacity to raise their children - work schedules. Lack of access to safe and affordable housing. Poverty can result in children starting to steal things they want. The things they see other kids with. This is an entry point into child intervention. There is a thin line between neglect and poverty. School sees no new shoes as neglect when it is poverty. Evictions etc. when children are involved is a major challenge. No stability. The inefficiencies and illogic around housing under AB works (\$160/night hotel) - the money of being put in a wrong place.

## **Needs and Opportunities/recommendations**

Based on input received from the newcomer, refugee and immigrant communities in Calgary and Edmonton. The following recommendations are made to the Office of the Child and Youth Advocate Legislative review:

1. **Mandate ability to advocate/support community** level capacity building and long term partnership development/relationship building with grassroots community organizations. OCYA must play a stronger role in actively building relationships and viewing these as long term partnerships. Enhance community capacity to support children and understand what OCYA's role is and work with community; not just the child.
2. **Education of newcomer communities** - the OCYA needs to work with newcomer agencies and create a two way learning process of learning: professional development for staff and rights education for newcomers in relation to children and youth within justice and child intervention.
3. **Expand OCYA role to include a focus on kinship and family rights.** OCYA is limited in advocating effectively for children and youth while also protecting culture rights. There is a disconnect with the family. Their role with families and community could act as a bridge for enhanced support to children. This would reduce inefficiencies and support more manageable caseloads for OCYA advocates. This relies on deepened relationships, mutual respect and trust. OCYA operates in isolation from community and from family which is incredibly problematic.
4. The OCYA can act as an advocate and voice for the child while also mediating with families and/or communities.
5. Systemic advocacy role of OCYA is critical and they should continue and become more proactive. Playing a monitoring role of CFS is critical. It is felt that CFS is untouchable and their ill practises can not be addressed because there is a lack of space for voice, fair trial, and remedy. There needs to be a role for monitoring and ensuring compliance of CFS.