



**Summary Report**  
**Roster Lawyer Consultation Sessions**  
**held**  
**October 25 and November 1, 2006**

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## CONSULTATION SESSIONS OVERVIEW

The administrative process for appointing legal counsel for children and youth who have matters under Alberta's *Child, Youth and Family Enhancement Act* and the *Protection of Children Involved in Prostitution Act* was transferred to the Office of the Child and Youth Advocate on April 1, 2006. Prior to opening for business, input was gathered from the legal community. A series of consultations were held with lawyers and other stakeholders and a roster of lawyers interested in working with children and youth was established.

Since April 1, hundreds of appointments have been made. Feedback has been largely positive and the service continues to develop and evolve in response to stakeholders' needs. Six months after launch of the new service, the Legal Representation for Children and Youth (LRCY) team felt it was timely and important to meet face-to-face with roster lawyers.

A session was held in Calgary on October 25 and in Edmonton on November 1. Thirty-one lawyers attended, about 45% of the total roster. The LRCY team reviewed key changes made in recent months, consulted on planned service enhancements, and invited lawyers to share their experiences or offer suggestions for improvement. This summary report highlights key information and discussion points and the collective input provided by participants.

Overall, the majority of participants expressed appreciation or satisfaction with LRCY. Frequent mentions included the organization's transparency and administrative efficiency, staff's responsiveness and accessibility, and a smooth, clear appointment process. They strongly supported LRCY's efforts to maintain its independence, saying it results in better representation for children and youth. There was unanimous support for continuing regular consultation sessions with roster lawyers.

## PROGRAM UPDATE

LRCY Manager Jackie Stewart told participants the service has had more cases than expected and the numbers continue to rise. Nearly one-third of offers are urgent needs where the court date is within three days of the call requesting a lawyer.

A new staffing model is being finalized to better cope with the workload. In the new year, LRCY will be moving to larger offices elsewhere in Edmonton.

## Roster Criteria Review

LRCY wants to increase the number of lawyers on the roster, institute an evaluation process, and develop suspension/termination policies. A consultant will be hired by LRCY to review the roster criteria and suggest changes. The review will include consultations with lawyers and other stakeholders.

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### Training and Mentoring

Discussions are underway for lawyers to have access to distance learning and face-to-face child and youth representation educational sessions in 2007. These would be similar to educational workshops offered in April 2005 and would provide lawyers who want to get on the roster with the educational requirement they need to qualify.

Participants supported the idea of special training and mentoring of lawyers who wish to work with children and youth. It was noted that mentoring is done informally now. It was suggested lawyers who wish to mentor have a certain number of years of experience at the bar and working in child welfare. Calgary participants supported the suggestion from a lawyer there that a Canadian Bar Association subgroup be formed to develop and maintain continuing education in this specialty.

### Client Interaction and Use of Agents

It is LRCY policy that every appointed lawyer meet face-to-face with a child or youth before and after a matter is dealt with. It is preferred that the initial meeting be held soon after an appointment is made.

LRCY is reviewing its policy on the use of agents. Participants agreed agents should not interview a child or youth or have any substantive discussions with them.

They said agents are valuable and sometimes needed – particularly in outlying areas – to appear in court or at a hearing on short notice, schedule a court date or deal with a straightforward issue like an adjournment. However, traveling to an outlying area for an adjournment may give an opportunity to meet face-to-face with the child or youth and have discussions with other counsel.

Some suggested it would be an inappropriate use of a roster lawyer's time and LRCY funds to require a lawyer to travel for a half-day or spend a half-day in court to attend to a brief, minor matter. The consensus by the lawyers was that the appointed lawyer should attend the initial hearing and all other "hearings of substance." They believed lawyers should be left with some discretion as to when to use an agent.

### Appointing Lawyers to Complex Cases

LRCY would like to have experienced lawyers working on complex cases. Caseworkers and judges have expressed frustration and difficulty in dealing with inexperienced lawyers. As it is difficult to define whether a case is complex at the time of appointment, LRCY would like lawyers to review and decide if a case is beyond their capability at the time they are being offered the case. This would enable appointment of another lawyer before the case develops. LRCY can assist through the intake process by sharing information that may indicate a case could be complex, e.g. difficult legal issue, number of other lawyers involved, etc.

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Other Suggestions from Participants

- During the intake process, provide the names of the child/youth's parents so that the lawyer can determine any conflict of interest.
- Send a notice of the LRCY appointment to the court clerk so the judge is aware that the child or youth has a lawyer and their name. Notice to Alberta Justice and court workers was also suggested.
- Provide the time of the court date when leaving a message asking a lawyer about appointment availability.
- Place "Legal Representation for Children and Youth" in the title of e-mails so they are not deemed junk mail.
- Put staff names, phone numbers and roles within the office on the website so lawyers can call the right person directly to follow up or make inquiries.

**POLICY DEVELOPMENT AND EVALUATION**

Some lawyers were concerned that a person is dropped to the bottom of the roster if they decline an appointment because of scheduling conflicts. They suggested this was not the fault of the lawyer and therefore the lawyer should not be penalized. LRCY noted that declining an urgent case does not move the lawyer from their position on the roster. One person suggested 4-5 days to court be considered an urgent matter. LRCY indicated that moving a lawyer to the bottom of the roster for declining a non-urgent case is necessary in order to ensure adequate movement and equality in the roster.

LRCY is tracking appointment statistics to ensure there is a fair distribution of cases amongst roster lawyers. So far, there is relative equality, particularly within urban areas where extensive travel is not required.

Lawyers were advised to contact LRCY if they miss a callback deadline but want to know if the assignment has been made yet. Sometimes the appointment is still available.

Reports of Case Status

Currently, a lawyer has to submit a report of case status under the following circumstances:

- a. if case exceeds 6 months and then every 6 months after, or
- b. upon completing a case, or
- c. when requesting an extension of the case allowance (hours or disbursements)

LRCY would like more consistency in the case reports. Some are too in-depth and reveal case details that should remain privileged between a lawyer and the child/youth. Reports should be brief and contain only essential facts.

Participants made a number of suggestions that they said would help lawyers provide a succinct report with sufficient detail. Many favoured a checklist with a "fill in the boxes" format as opposed to essay style. There was a commitment by LRCY to develop a template incorporating the suggestions and to send it out to roster lawyers for additional feedback.

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### Roster Lawyer Service Evaluation

LRCY is establishing a committee to determine what elements of service require evaluation. Plans call for an evaluation to be undertaken of LRCY service by late spring 2007. An independent research firm would be contracted to carry out the evaluation. Lawyers interested in sitting on the Evaluation Steering Committee were invited to contact Sherri Tanchak at [sherri.tanchak@gov.ab.ca](mailto:sherri.tanchak@gov.ab.ca)

LRCY shared with participants that one of the elements of service being reviewed in the evaluation is the quality of representation. As part of the preparation for reviewing this element participants were asked to define “quality representation” for children and youth. Participant offered the following suggestions to defining “what is quality representation?”:

- Ability to take a leadership role
- Ability to facilitate discussions among other parties
- Ability to get the matter settled (although it was recognized cases usually take longer when dealing with a child or youth)
- Ability to negotiate in high conflict situations
- Ability to communicate with young people
- Ability to interview a child or youth
- Maintaining contact with the child or youth throughout the case including during adjournments
- Face-to-face meetings with child/youth
- Knowledge of child development
- Knowledge of court processes involving child intervention cases
- Understanding of Aboriginal and other cultures

### **PCHIP AND SECURE SERVICES AGREEMENTS**

A six-month trial contracting dedicated legal services for children and youth in secure services or under PChIP worked well for all parties, according to an independent evaluation commissioned by LRCY. The results prompted Requests for Proposals (RFPs) to be issued in October seeking firms willing to continue the service.

A team of five independent lawyers joined forces to win the Edmonton contract. No one submitted a proposal in Calgary so the RFP was re-issued. A few Calgary participants said there may be more interest in the re-issued RFP if more information is provided and they have access to the roster list to help identify who they can partner with on the bid.

### **BILLING AND PAYMENT PROCESS UPDATE**

LRCY has made some changes to make billing easier, including not having to apportion expenses to individual clients (for example, travel) when representing multiple children. For billing purposes, a portion of an hour should be expensed to the nearest quarter of an hour.

All flights need to be pre-authorized. LRCY will not compensate for down time caused by weather or other unexpected circumstances but it will cover any reasonable expenses caused by such circumstances. For example, having to stay overnight due to weather.

Frequent billing is encouraged. Once per month is recommended unless a file has been inactive during that period. Clear invoices with all required original receipts attached speed payment. Several participants supported the development of an invoice template by LRCY for lawyers to follow.

Some participants said the tariff book was hard to understand and wanted more clarity about what is an allowable expense. Lawyers were encouraged to call LRCY if they are in doubt about what is an allowable expense.

#### **APPOINTMENT OF LAWYERS FOR CHILDREN WITHOUT A COURT ORDER**

Anna Loparco of the law firm Fraser Milner Casgrain LLP presented a draft opinion on LRCY's authority to appoint legal counsel for children without a court order. Ms. Loparco, who specializes in administrative and statutory law, indicated that the firm's preliminary finding is that LRCY does have the legal and administrative authority to appoint legal counsel without a court order, regardless of age. The full opinion will be released once it is finalized.