

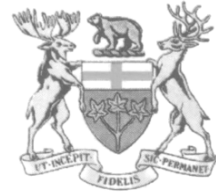
ANNUAL REPORT

2006 - 2007



Child and Family
Services Review Board
Custody Review
Board

Commission de révision
des services à l'enfance et à la famille
Commission de révision
des placements sous garde



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September 5, 2007

The Honourable Mary Anne Chambers
Minister of Children and Youth Services
56 Wellesley Street West
Toronto, ON M5S 2S3

Minister:

It is my pleasure to present to you the Child and Family Services Review Board and Custody Review Board's annual report for 2006-2007.

Regards,

Suzanne Gilbert
Chair

MESSAGE FROM THE CHAIR



Suzanne Gilbert
Chair

The 2006-2007 fiscal year has been a year of great change and transition for Board members and administrative staff supporting the work of the Child and Family Services Review Board and the Custody Review Board.¹

In the last six months of the fiscal year, with the implementation of the amendments to the *Child and Family Services Act* and the *Vital Statistics Act*, the work of the Child and Family Services Review Board has grown significantly. There has been an increase in the number of appointments to the Board, as well as staff supporting the Board's expanded mandate, in order to meet this increased demand.

Amendments to the *Child and Family Services Act* are part of an overall Ministry of Children and Youth Services policy direction to reform the child welfare system in Ontario. These amendments establish the Child and Family Services Review Board as the independent body responsible for reviewing complaints relating to children's aid societies and certain decisions of children's aid societies and adoption licensees.

Much of the Board's focus during the first six months of the 2006-2007 fiscal year was centred on the development of an administrative infrastructure to support the anticipated changes resulting from the implementation of these two new pieces of legislation. Assessments were undertaken to project the number of applications the Board would receive. This resulted in a project plan that outlined staff recruitment strategies to support new Board activities as well as accommodation requirements and equipment needs. A temporary staffing structure was implemented with a government commitment to confirm staffing requirements based on actual increase in Board activity in the fall of 2007.

1. The CFSRB and the CRB are referred to collectively throughout this document as the Board.

While building the infrastructure necessary to support the Board's work, my priority was to develop a solid adjudicative infrastructure that included Board member and staff training, the creation of Board Rules of Procedure and workflow processes, while maintaining the ongoing work of the Board. At the date of the proclamation of the *Acts*, the Child and Family Services Review Board was ready to receive applications and conduct hearings.

Ruth Ann Schedlich was the interim Chair on a part-time basis when I assumed the position of full-time Chair on October 18, 2006. I would like to take this opportunity to thank Ruth Ann Schedlich for her leadership during this period of great transition. I would also like to thank the Board members who have had to live through this period of cultural change and the staff who have embarked on this great project with so much enthusiasm.

Finally, I would like to thank Gail Gonda, Project Manager for the implementation of the two new pieces of legislation and Ron Cormier, Board Manager, for their dedication and enthusiasm for all of the new challenges we have had to face. Their knowledge of the child welfare system in Ontario has been of great assistance to me and the Board.

This Annual Report is substantively different from the Board's previous annual reports. It provides a higher level of detail in order to respond to a need for greater clarity and understanding of the Board's role and its expanded mandate.

The upcoming fiscal year will bring new challenges and I know that I can count on the commitment of the Board members and staff in meeting these challenges.

I will end this message by reaffirming the Board's commitment to its vision statement:

The Child and Family Services Review Board and Custody Review Board will strive for excellence and efficiency in everything it does with integrity, impartiality, and respect. The Child and Family Services Review Board and Custody Review Board will be an active partner with others who are also dedicated to seeking justice for children and their families.

A handwritten signature in black ink, reading "Suzanne Gilbert". The signature is written in a cursive, flowing style.

The Government of Ontario established the Children Services Review Board in 1979 under the *Children's Residential Services Act*. Similar to other provincial tribunals, the Review Board received government funding and operated at arms-length. The Lieutenant Governor in Council appointed a part-time Chair and part-time Board members.

In 1979, the Review Board had legislative responsibilities to conduct reviews and hearings related to:

- Regional Director decisions for the licensing of children's residences;
- Residential Placement Advisory Committee decisions;
- A Director's decision to refuse to approve a proposed adoption placement, or impose a term or condition on an approval;
- A Director's decision to refuse disclosure of non-identifying adoption information where disclosure might result in serious physical or emotional harm;
- Emergency admission of a child to a secure treatment program;
- A Director's refusal to approve a person as eligible and suitable to adopt for the purpose of an intercountry adoption;
- A Director's refusal to approve a proposed intercountry adoption or an approval subject to conditions.

The *Children's Residential Services Act* was replaced by its successor legislation, the *Child and Family Services Act (CFSA)*, in

1984, and over time, the tribunal's name was changed to the Child and Family Services Review Board (CFSRB). Section 207 of the *Child and Family Services Act* provides for the establishment of the CFSRB. In 1999, authority to conduct licensing hearings was transferred from the CFSRB to the License Appeal Tribunal.

In 2000, the CFSRB's mandate was again expanded to hear appeals of school board imposed expulsions.

The Custody Review Board (CRB) was established in 1985 under the *Child and Family Services Act*. Section 96 of the *Child and Family Services Act* and section 51 of the *Ministry of Correctional Services Act* provide for the establishment of the CRB. The Lieutenant Governor in Council appointed a part-time Chair and part-time Board members to hear applications and make recommendations to Provincial Directors regarding custodial placement of youth in conflict with the law. Legislative authority is set out in the *Ministry of Correctional Services Act* and the *Child and Family Services Act*. The CRB conducts reviews of:

- A decision to hold a young person in or transfer the young person to a maximum security facility;
- A decision about a particular placement where a young person is being held, or to which the young person has been transferred;
- A refusal to authorize a young person's temporary release or reintegration leave;
- A young person's transfer from a place of open custody to a place of secure custody;
- A refusal to authorize the young person's temporary release.

In 1999 one part-time Chair was appointed to lead both Boards. Part-time Board members were cross-appointed to both Boards.

The mandate of the CFSRB was significantly broadened as a result of amendments to the *Child and Family Services Act*, which came into effect on November 30, 2006. As of that date, the CFSRB could hear applications regarding:

- A children's aid society decision to remove a Crown Ward, where the child has resided continuously with the foster parent for at least 2 years;
- Certain client complaints related to children's aid societies;
- A children's aid society decision to remove a child placed for adoption or to refuse an adoption plan.

The CFSRB's mandate was further expanded as a result of amendments to the *Vital Statistics Act*.

The full implementation of the *Act* will occur in the fall of 2007 allowing for the disclosure of identifying information to adopted persons and birth parents. Prior to the full implementation of the *Act*, some amendments came into force on January 31, 2007 allowing adopted persons, birth parents and in certain circumstances adoptive parents, to make an application to the Board for an order prohibiting disclosure of identifying information where the order is appropriate to prevent sexual harm or significant physical or emotional harm.



WHO WE ARE

The 2006-07 fiscal year saw a shift in the Board's adjudicative and administrative structures in order to support an increased mandate for the CFSRB.

Of significance was the appointment of Suzanne Gilbert as full-time Board Chair on October 18, 2006, followed by the appointments of Ruth Ann Schedlich and Denyse Diaz as full-time Vice Chairs. The number of Board members increased from eight to a total of 16. All Board members are cross-appointed to both Boards. They come from a variety of backgrounds in the legal, social services and education fields. The Board's membership is diverse, with representation from different communities across Ontario. The Board is also committed to offering services in both official languages.

In order to become a Board member, potential candidates submit an application to the Public Appointments Secretariat. The selection process for both Boards includes a review of applications to determine if candidates meet the requirements, followed by structured interviews.

Amendments to the CFSA have set out the following requirements:

- A degree, diploma or certificate granted by a university or other post-secondary institution authorized to grant such credentials in Ontario or equivalent qualifications, as determined by the Chair of the Board, and at least one year's experience working in or volunteering in children's services or social services.
- At least five years' experience working in or volunteering in children's services or social services.

The Board Chair recommends candidates to the Minister of Children and Youth Services for consideration. Board members are appointed by the Lieutenant Governor in Council for terms of two, three and five years.

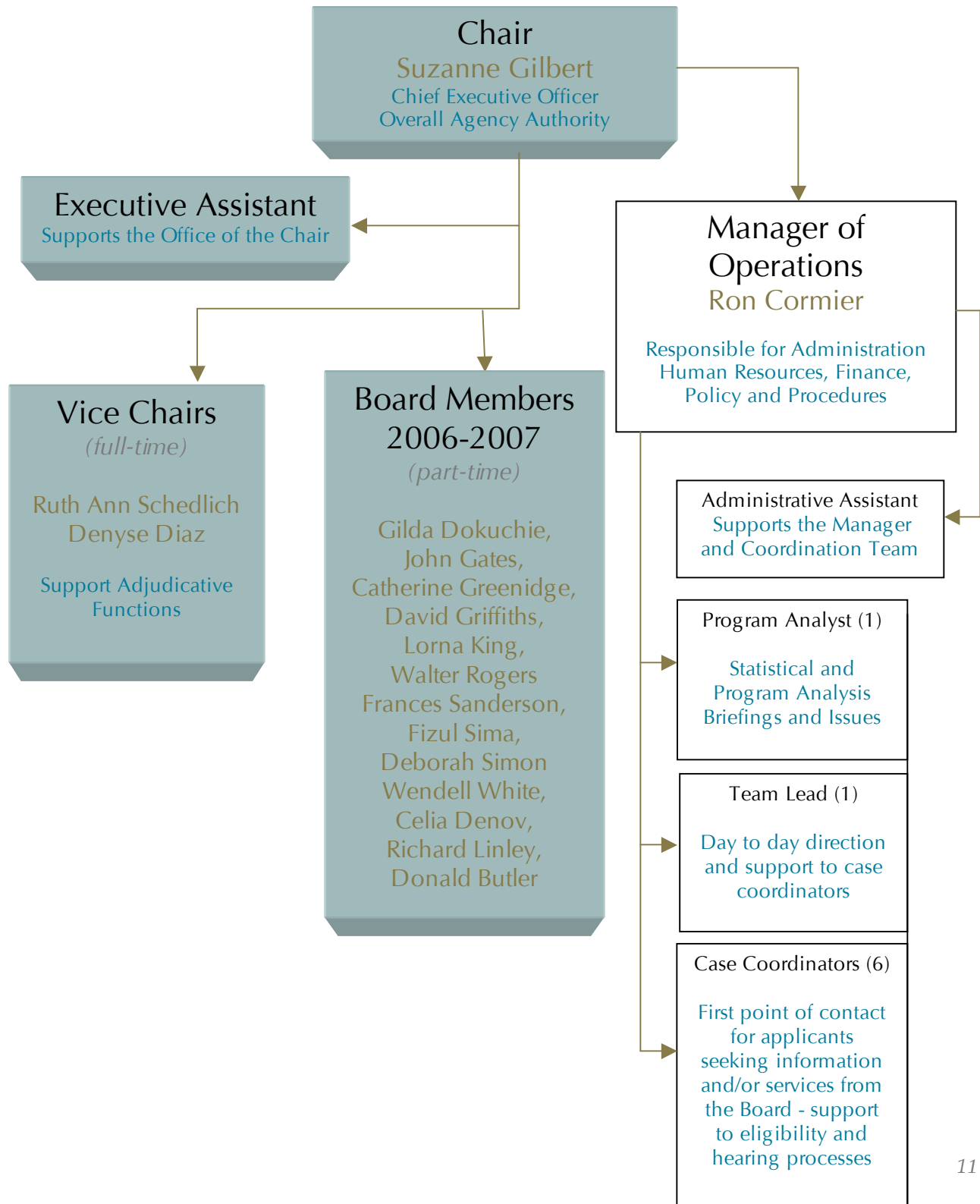
The Board will continue to work with the Public Appointments Secretariat in the 2007-2008 fiscal year regarding recruitment of additional members to ensure its capacity to manage the increase in work volume.

Board members reside in communities throughout the province, allowing the Board flexibility to schedule hearings in close proximity to the applicants. The Board's administrative offices are located in downtown Toronto.

In early 2006-2007, the Board was supported by a team of two administrative assistants and a part-time manager. During the summer of 2006, recruitment began for additional staff to support the expanded mandate of the Board to include: a full-time manager, two administrative assistants, six case coordinators, one team leader and one analyst.



The following chart represents the organizational structure of the Child and Family Services Review Board and Custody Review Board, as of March 31, 2007



WHAT WE DO

THE CHILD AND FAMILY SERVICES REVIEW BOARD (CFSRB)

THE EXPANDED MANDATE

The most significant change experienced by the Board during this fiscal year was the expansion of its mandate as a result of amendments to the *Child and Family Services Act* and the *Vital Statistics Act* summarized below:

I - AMENDMENTS TO THE *CHILD AND FAMILY SERVICES ACT*

Sections 61 & 144

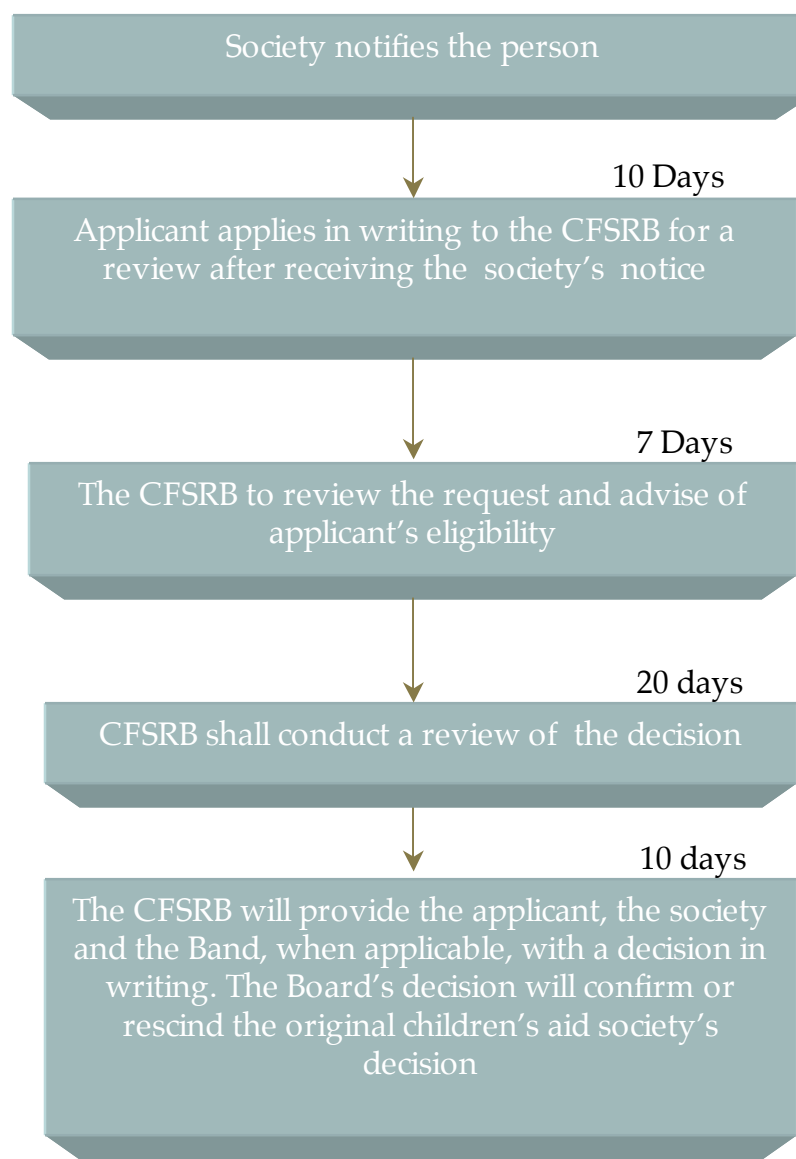
Since November 30, 2006, under section 61 of the *Act*, a foster parent can apply to the Child and Family Services Review Board to request a review of a proposed decision of a children's aid society to remove a Crown Ward who has lived with the foster parent continuously for two years. The child or children subject to the proposed decision of the society remain with the foster family during the proceedings, unless there is a risk that the child is likely to suffer harm.

Under section 144 of the *Act*, an individual may request a review of a children's aid society decision to refuse an application to adopt a particular child made by a foster parent or other person, or a children's aid society or adoption licensee decision to remove a child who has been placed with a person for adoption.

Under both provisions, applicants have 10 days after they have been notified of the society's decision, to apply to the Board for a review of the society's decision. Hearings are conducted by a panel of three Board members. In order to understand the decision of the society, the Board hears the society's evidence first followed by the applicant's evidence in support of the application. The *Act* provides that if the child is native, a representative of the band may be present at the hearing as a party. Although the Board has heard only a few of these applications during this fiscal year, it is clear that the hearings are lengthy and proceed over several days.

The Board, after considering all of the evidence, determines which action is in the best interest of the child and based on its determination, rescinds or confirms the decision of the society. The Board's reasons for its decision are issued within 10 days of the completion of the hearing.

Below are the legislative timeframes for the whole process:



Statistics

December 1, 2006 - March 31, 2007

Section 61	
Applications Received	2
Applications Withdrawn	0
Pre-hearings	0
Hearings	2
Decisions Issued	2

There were 2 hearings held in 2006-2007 for section 61 applications and 2 decisions issued.

Section 144	
Applications Received	6
Applications Withdrawn	2
Pre-hearings	2
Hearings	0
Decisions Issued	0

There were no hearings held in 2006-2007 for section 144 applications because they were received at the end of the fiscal year and hearing dates were set for the next fiscal year.

Sections 68 & 68.1

Applications under the new sections 68 and 68.1 have been the main focus of the Board's work during this fiscal year. The *Act* and the regulations have modified the internal complaints process of children's aid societies. The new process is now similar throughout the province. The new regulations create an Internal Complaint Review Panel (ICRP) that will hear a complaint and issue a "written summary of the meeting" within a short and uniform timeframe.

Since November 30, 2006, the Board has been given the authority to review the ICRP process. It also has the authority to hear a complaint made directly to the Board or before the complaint process of the ICRP is completed.

An application can be brought to the Board if the individual believes the children's aid society:

1. Has refused to proceed with his or her complaint;
2. Has failed to respond to his or her complaint within the timeframes required by regulation;
3. Has failed to comply with the complaint review procedure or with any other procedural requirement under the *Child and Family Services Act* relating to the review of complaints;
4. Has failed to comply with clause 2(2)(a) of the *Child and Family Services Act* which states: "Service providers shall ensure that children and their parents have an opportunity where appropriate to be heard and represented when decisions affecting their interests are made and to be heard when they have concerns about the services they are receiving";
5. Has failed to provide reasons for a decision that affects his or her interests;
6. Has inaccurately recorded something on his or her file or record and this has not been resolved through the children's aid society's internal complaint review procedure.

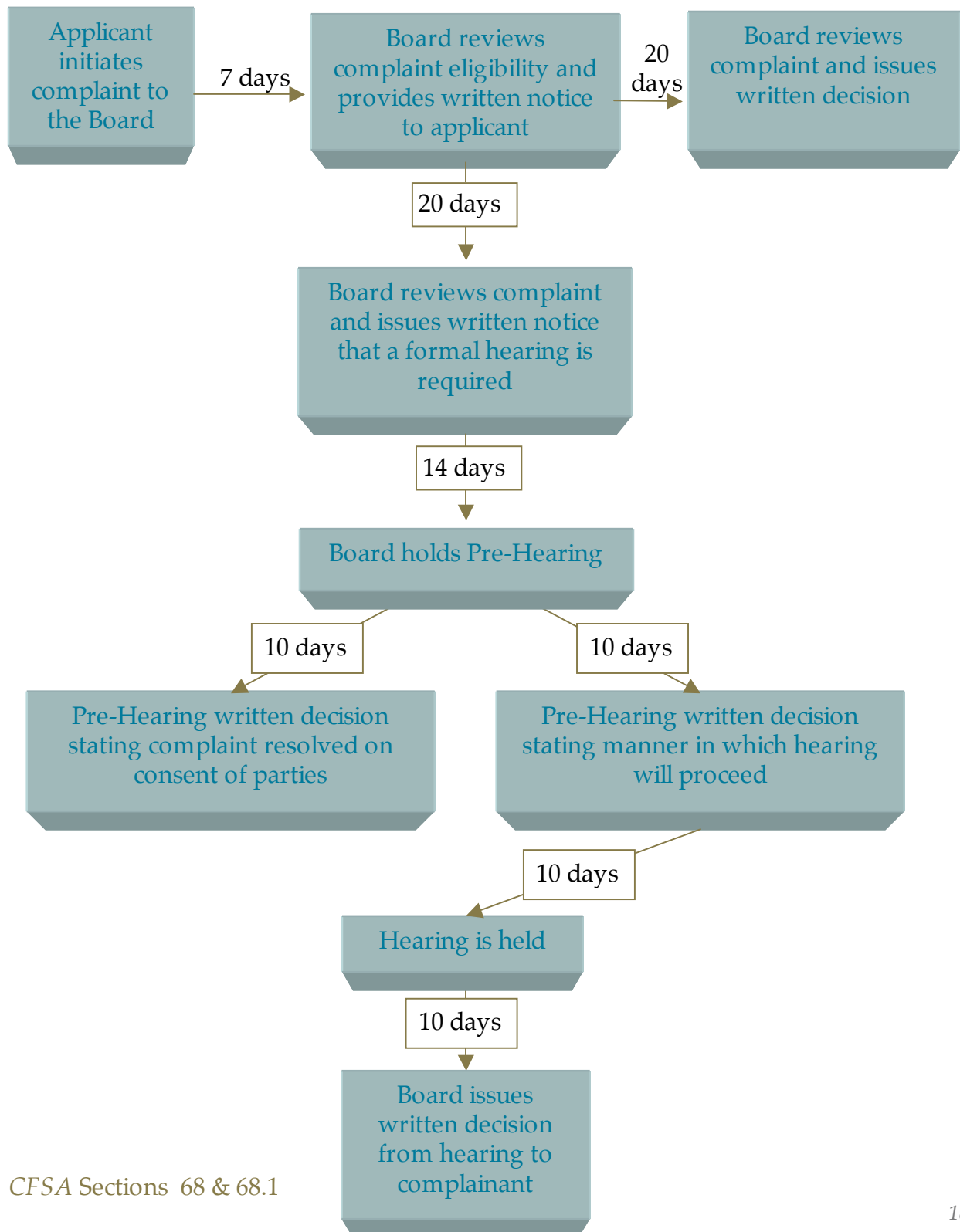
Under the legislative amendments for sections 68 and 68.1 applications, the Board is required to make an eligibility decision within seven days of receipt of the application. Considering the very short timeframe in which to make the eligibility decision, the Board determined that eligibility would be granted when it appears that the allegations fall within the six enumerated grounds. Once eligibility has been established, the Board proceeds to hear the application, including any jurisdictional arguments that might be made.

In the early stage of the implementation of the *Act*, the main issue raised by the societies has been the absence of jurisdiction of the Board because the matters raised by the application have been decided by the Court or are before the Court and/or that the transitional provision applies. The *Act* provides that when a complaint has been made before the date of the proclamation of the *Act*, the old internal review process applies. In the old complaint process, there was no appeal or review of the society decision.

Hearings are conducted by a panel of three Board members. Pre-hearings are required for all sections 68 and 68.1 applications. At this stage, part or all of the issues may be resolved. Motions on jurisdiction are heard at the beginning of the hearing by the Board members assigned to the file. If the Board determines that it has jurisdiction, the hearing moves to the merits of the application. In the event the Board finds that it has no jurisdiction, the application is dismissed.



The Act and the regulations created the following steps:



Statistics

December 1, 2006 to March 31, 2007

There were 33 applications received in 2006-2007.

Section 68	
Applications Received	33
Applications Reviewed for Eligibility	27
Eligible Applications	24
Non-Eligible Applications	3
Decisions to Proceed to Oral Hearing	10
Written Reviews & Files Closed	5
Pre-hearings	9
Hearings	5
Decisions Issued	3
Applications Withdrawn	2

Of the 33 applications:

- 27 applications were reviewed for eligibility in the 2006-2007 fiscal year and 6 were reviewed in the following fiscal year;
- 10 applications were sent to an oral hearing and 5 were closed after a written review. 9 applications were dealt with in the next fiscal year;
- 9 pre-hearing conferences were held in the current fiscal year and one was scheduled in the following fiscal year;
- 2 applications were withdrawn after the pre-hearing conference;
- 5 hearings were held during the present fiscal year and 2 were scheduled in the following fiscal year;
- 3 decisions were issued during the fiscal year and 2 decisions in the following fiscal year;
- of the 3 decisions, 2 determined that the Board had no jurisdiction and 1 dismissed the complaint on the merits.

II- AMENDMENTS TO THE *VITAL STATISTICS ACT*

On January 31, 2007, amendments came into force allowing adopted persons, birth parents and in certain circumstances adoptive parents, to make an application to the Board for an order prohibiting disclosure of identifying information where the order is appropriate to prevent sexual harm or significant physical or emotional harm. An applicant may request an oral or written hearing. The Board will make its decision within 30 days of the hearing. If the applicant wishes, they may request a copy of the reasons for the decision.

Any person who applied for and obtained an order prohibiting disclosure may apply for a reconsideration of an order within 30 days after the order is received. Any person who has been refused identifying information by the Registrar General because of an order prohibiting disclosure may apply for a reconsideration of an order within 60 days after they have received the refusal from the Registrar General. No information will be released by the Office of the Registrar General in the interim.

Statistics

February 1, 2007 to March 31, 2007

<i>Vital Statistics Act</i>	
Applications Received	0

- The Board received 56 telephone inquiries related to the *Vital Statistics Act* in March 2007;
- No applications were received by the Board in February and March 2007.

PRE-EXISTING WORK OF THE BOARD

The expanded legislative mandate of the Board was in addition to the work that it had prior to the legislative changes to the *Child and Family Services Act* and the *Vital Statistics Act*. This work is summarized below:

SCHOOL BOARD EXPULSION APPEALS

The Child and Family Services Review Board hears appeals of school board imposed expulsions. The following persons are entitled to appeal:

- The student's parent or guardian, if the student is a minor;
- The student, if the student is not a minor;
- Any other person as may be specified in school board policy.

The appellants are required to apply to the CFSRB in writing within 60 days from the date of the expulsion decision. Three Board members hear the appeal. The CFSRB is required to convene a hearing within 30 days of receiving written notice of appeal. Pre-hearings are conducted to clearly articulate the issues to be heard and to determine if the matter can be settled at this stage.

After hearing an appeal from a decision of a school board, the CFSRB may:

- Confirm the school board's decision;
- Modify the type or duration of the expulsion;
- Impose, change or remove conditions that must be satisfied if the student is to return to school;
- Overrule the decision of the school board, reinstate the student and expunge his or her record.

Once the hearing is completed the CFSRB is required to issue written reasons for decision within 10 days.

Statistics

April 1, 2006 – March 31, 2007

Safe Schools	
Applications Received	10
Applications Withdrawn	5
Applications/Files Closed	1
Pre-Hearings	5
Hearings	0
Decisions Issued	0

The CFSRB received 10 applications in 2006-2007, compared to 15 in 2005-2006.

Of the 10 applications:

- 5 applications were withdrawn, 1 withdrawal followed a pre-hearing conference;
- 1 application was closed due to a lack of contact from the applicant;
- No hearings were held as applications were either withdrawn or hearings were scheduled in the 2007-2008 fiscal year.

The CFSRB notes the low number of appeals filed relative to the number of school board imposed expulsions in the province. During the next fiscal year, the Board will examine the reasons for the low number of applications.

EMERGENCY SECURE TREATMENT ADMISSIONS (ESTA)

When a child is admitted to a secure treatment facility pursuant to section 124 of the *Child and Family Services Act*, the administrator of the facility is required to notify the Office of Child and Family Services Advocacy and the Office of the Children's Lawyer of the admission. The Advocacy Office is required to ensure that the child is made aware of his or her right to review the admission to the Board. If an application is submitted to the Board, the Office of the Children's Lawyer ensures that the child has legal counsel.

Any person, including the child, can make an application for an order releasing the child from the secure treatment program. Counsel appointed to represent the child generally submits the application to the Board. Upon receipt of the application, the Board is required to hold a hearing within five calendar days, including weekends and statutory holidays.

Three Board members hear the review. The Board may hear testimony from the child, medical and social service professionals, facility staff, family member and any other relevant witnesses.

In order to keep a child in a secure treatment program, the Board members must be satisfied that:

- The child has a mental disorder;
- The child has, as a result of the mental disorder, caused, attempted to cause, or threatened to cause serious bodily harm to himself or herself or others;
- The secure treatment program would be effective to prevent the child from causing or attempting to cause harm to himself or herself or others;
- The treatment is appropriate for the child's mental disorder and is available at the place of secure treatment;
- No less restrictive method of providing treatment is appropriate in the circumstances.

At the conclusion of the hearing, the Board issues an order and reasons for its decision. The Board's decisions are binding.

Statistics

April 1, 2006 –March 31, 2007

Emergency Secure Treatment Applications	
Applications Received	21
Applications Withdrawn	8
Applications/Files Closed	3
Hearings	11
Decisions Issued	10

The CFSRB received 21 Emergency Secure Treatment Admission applications in 2006-2007, compared to 31 in 2005-2006.

Of the 21 applications:

- 8 applications were withdrawn, 1 of which was withdrawn following the hearing and before a decision was issued;
- 3 applications were closed due to a lack of contact from the applicant;
- 11 hearings were held and 10 decisions were issued (as noted above, 1 application was withdrawn following the hearing and before a decision was issued).

RESIDENTIAL PLACEMENT ADVISORY COMMITTEE (RPAC)

A child of 12 years of age or older who is in a residential placement may ask for a review to the CFSRB of the decision of the local RPAC when:

- He or she is dissatisfied with the advisory committee's recommendations; or
- The advisory committee's recommendations were not followed.

Three Board Members will conduct the hearing. The Board is required to inform the child within 10 days of receiving an application whether or not it intends to hold a hearing. The parties to the hearing are the child, the child's parent(s) or guardian.

The Board may:

- Order that the child be transferred to another residential placement if the Board is satisfied that the other residential placement is available;
- Order the child to be discharged from the residential placement;
- Confirm the existing placement;
- Attach terms and conditions to its orders.

Statistics

April 1, 2006 – March 31, 2007

Residential Placement Advisory Committee	
Applications Received	3
Applications Withdrawn	3
Hearings	0
Decisions Issued	0

There were 3 applications processed during 2006-2007 compared to 4 applications in 2005-2006. All 3 applications were withdrawn.

During the next fiscal year, the Board will examine the reasons for the low number of applications.

INTERCOUNTRY ADOPTIONS

The Child and Family Services Review Board conducts a review of a Director's refusal to approve a person for an intercountry adoption or the conditions attached to the approval pursuant to section 6 of the *Intercountry Adoption Act*. There were no applications filed with the Board in 2006-2007. The Board will review the overall decline in the number of applications received since 1995.

CUSTODY REVIEW BOARD (CRB)

The Custody Review Board provides an independent review of placement decisions made by Provincial Directors for young persons in places of custody and detention.

When a young person enters a custody facility, a probation officer, youth worker, or staff member explains his or her rights, including the right to a review of a decision that deals with their custody placement. A young person can apply to the Board within 30 days of a Provincial Director's decision to place or transfer him or her to a youth facility.

An application is completed by a Board case coordinator in a telephone conversation with the young person. Based on the information provided, the Board determines if an oral hearing is required or if the application can be assigned to a Board member for a review that is conducted through telephone interviews. The Board reviews all relevant material including the issues identified by the young person, while considering information and facts from facility staff, probation officers, advocates, family members or others as appropriate. After reviewing all of relevant information, the Board makes a recommendation to the responsible Provincial Director. The Board's recommendations are not binding.

In the upcoming fiscal year, the Board will review the adjudicative process of the CRB.

Statistics

April 1, 2006 – March 31, 2007

Custody Review Board	
Applications Received	75
Applications Withdrawn	2
Pre-Hearings	1
Hearings	1
Reviews	72
Recommendations Issued	72

The CRB received 75 applications in 2006-2007, slightly higher than the 67 applications received in 2005-2006.

Of the 75 applications received:

- 2 applications were withdrawn;
- 1 oral hearing was held;
- 72 recommendations were made to Provincial Directors;
- 1 recommendation for an application received was issued in 2007-2008.

SUMMARY

This fiscal year saw significant changes to the mandate of the Child and Family Services Review Board. Today, the Board's legislative responsibilities are wide and varied as reflected by the different pieces of legislation summarized below:

Under the Child and Family Services Act:

- Residential Placement Advisory Committee recommendations with respect to a child's residential placement pursuant to s.36;
- A children's aid society decision to remove a Crown ward, where the child has resided continuously with the foster parent for two or more years pursuant to s.61;
- Certain client complaints related to children's aid societies pursuant to s.68 and s.68.1;
- Emergency admission of a child to a secure treatment program pursuant to s.124;
- A Director's decision to refuse to approve a proposed adoption placement, or to impose a term or condition on an approval, pursuant to s.142;
- A decision of a children's aid society to refuse an application to adopt a particular child or a decision of a society or licensee to remove a child from an adoption placement pursuant to s.144;
- A decision to refuse disclosure of non-identifying information that relates to an adoption where disclosure might result in serious physical or emotional harm pursuant to s.172.

Under the Education Act:

- Expulsion of students by school boards pursuant to s.311(5).

Under the *Intercountry Adoption Act*:

- A Director's refusal to approve a person as eligible and suitable to adopt for the purpose of an intercountry adoption or the attachment of conditions to a Director's approval pursuant to s.6.

Under the *Vital Statistics Act*:

- Applications to prohibit disclosure of identifying information by the Registrar General to birth parents adult adoptees and in some circumstances adoptive parents, where there are concerns about preventing sexual harm or significant physical/emotional harm pursuant to s.48.5, 48.6 and 48.7;
- Applications for reconsideration of an order to prohibit disclosure of identifying information to birth parents or adult adoptees pursuant to s.48.8;
- Applications to review the determination of a children's aid society Director that an adopted person was a victim of abuse pursuant to s.48.9(11).

The Custody Review Board hears applications and makes recommendations to Provincial Directors who perform duties with respect to youth in conflict with the law regarding the following:

Under the Ministry of Correctional Services Act:

Pursuant to s. 52(1):

- A provincial director's decision to hold a young person in or transfer the young person to a maximum security facility (repealed but not yet proclaimed);
- A decision about a particular placement where a young person is being held, or to which the young person has been transferred;
- A refusal to authorize a young person's temporary release or reintegration leave.

Under the Child and Family Services Act:

Pursuant to s.97(1):

- A particular placement where a young person is being held or to which the young person has been transferred;
- A provincial director's refusal to authorize the young person's temporary release or reintegration leave;
- The young person's transfer from a place of open custody to a place of secure custody.

FINANCIAL REPORT

The 2006-2007 operating budget for the Child and Family Services Review Board and the Custody Review Board was \$2.3 million. The Board received funding from the Ministry of Children and Youth Services in the amount of \$640,200 and the Ministry of Community and Social Services in the amount of \$1.5 million. The Ministry of Education provided \$142,900 to the Board.

The total operating expenditures for 2006-2007 were approximately \$1.3 million resulting in a surplus of approximately \$1.0 million. This was primarily related to the delayed start-up of staffing, automated systems and renovations.

Included in total expenditures is a one-time cost of \$224,700 for office renovations and for the purchase of office furniture and equipment to support the expansion related to the implementation of the amendments to the *Child and Family Services Act* and the *Vital Statistics Act*.

29.1% of total expenditures was related to salaries for an expanded staff group. Board member per diems and travel costs, including Board training, represented 22.2% of overall expenditures and were due to an increase in the number of hearings.

SUMMARY OF FUNDING & EXPENDITURES

	Total (000s)
Funding	
Ministry of Children and Youth Services	\$640.2
Ministry of Community and Social Services	1,489.5
Ministry of Education*	142.9
Total Funding	\$2,272.6
Expenditures	
Salaries	\$368.5
Benefits	41.4
Member Per Diems and Travel	281.2
Legal Services	33.4
Supplies and Services	154.2
Other Expenses	
(e.g. Telephone & communications, consultant services)	162.1
Office Renovations and Furnishings	224.7
Total Expenditure	\$1,265.5
 Surplus/ (Deficit)	 \$1,007.1

(information provided by Management Support Branch)

*Note: Funding from the Ministry of Education is provided to the Child and Family Services Review Board through a journal entry as expenses are incurred, up to a maximum of \$210,000.

A LOOK TO THE FUTURE

The 2007-2008 fiscal year will include many activities that will continue to support the expanded mandate of the Child and Family Services Review Board. Many of the new initiatives commenced in late 2006-2007 and will be implemented during the next fiscal year.

The Board will also focus on the development of a three-year Business Plan, the completion of a Memorandum of Understanding with the Ministry of Children and Youth Services, accompanied by Letters of Agreement with the Ministry of Community and Social Services, the Ministry of Government Services and the Ministry of Education. The acquisition of a case management system will also be completed in the next fiscal year, as well as the creation of the Board website.

The volume of applications to the Board is projected to grow as the public becomes better informed of their rights under the amendments to the *Child and Family Services Act* and *Vital Statistics Act*. As a result, the Board will recruit additional part-time Board members, who will continue to be considered based on the knowledge and experience that they can bring to the Board. Recruitment will focus on a Board reflective of communities across Ontario as well as an increased capacity to provide hearings in both official languages. Ongoing training sessions are scheduled for the next fiscal year. Board member committees have been established to develop a code of conduct and to review processes relating to the pre-existing work of the Board.



CASE SUMMARIES

Given the Board's unique mandate under the amendments to the *Child and Family Services Act*, case summaries have been provided for a few of the Board's early decisions.

SECTION 68

S.F. v. Children's Aid Society of the Districts of Sudbury and Manitoulin,
February 20, 2007

The Facts

S.F. filed an application with the Board on December 12, 2006 under subsections 68(5) and 68.1(4) of the *Child and Family Services Act* (the "*Act*") where he complained about child protection services provided by the Children's Aid Society of the District of Sudbury and Manitoulin (the "*Society*") regarding his son. In particular, the applicant complained that the Society: (a) operated in bad faith by following processes that favoured and relied upon his ex-wife; (b) brought an interim access order without his permission; (c) failed to follow the Risk Assessment Model provided by the Province of Ontario; and (d) failed to follow the *Act* and the Eligibility Spectrum regarding risk. The Applicant also complained that his son had been prescribed Ritalin.

The application was determined to be eligible on December 20, 2006. A pre-hearing conference was held on January 9, 2007. At that time, the Society advised the Board that it intended to challenge the jurisdiction of the Board to hear the application. A motion to quash the Board's jurisdiction was held on January 29, 2007. At that time, the Society argued that the Board lacked jurisdiction to review S.F.'s complaint under subsection 68(5) because the complaint had been made to the Society prior to November 30, 2006 and as such, the transitional provision under section 68(13) applied. The Society argued further that the Board did not have jurisdiction to hear the direct complaint under section 68.1(4) because the subject matter of the complaint was before the court pursuant to section 68.1(8).

The Decision

The Board found that the applicant had complained to the Society in January 2005 about the Society's management of the care and protection of the applicant's son. Because the complaint was made prior to November 30, 2006, the Board was governed by the transitional provision under subsection 68(13) of the *Act*, and it did not have jurisdiction to review this complaint.

The Board found further that the applicant complained to the Society regarding three social workers in September 2006. The Society sent the applicant its internal complaint procedure and asked him to proceed under the established protocol. The applicant did not follow the requirements of the internal complaints process even though he was directed to do so. The Board held that because this complaint was made prior to November 30, 2006, it had no jurisdiction to review it under subsection 68(13).

With respect to the prescription of Ritalin, the Board found that there was no evidence that the Society was involved in this decision and therefore, it could not be said that the Society failed to hear from the applicant when decisions were made that affected his interests under section 2(2)(a) of the *Act*.

The Board held that the remaining complaints brought directly to the Board were before the Family Court on the custody and access application and as such, the Board had no jurisdiction to hear the application pursuant to section 68.1(8) of the *Act*.

In *obiter*, the Board stated that its decision was limited to the facts of this case. The Board noted that the fact that a court made a determination that a child is at risk does not mean in every case that the Board does not have jurisdiction. Rather, the Board lacks jurisdiction where the particular subject matter of the complaint is before the court, not simply where the child/family is before the court.

M.D. v. Northumberland Children's Aid Society,

May 11, 2007*

The Facts

M.D. filed an application with the Board on February 22, 2007 under subsection 68.1(4)1 and 5 of the *Child and Family Services Act* (the "Act") where he complained that the Northumberland Children's Aid Society (the "Society") refused to proceed with his complaint and failed to provide him with reasons for a decision that affected his interests. The applicant was concerned about the well-being of his children and believed they were at risk because their mother had written a suicide note. The application was determined to be eligible on March 7, 2007 and a pre-hearing conference was held on April 4, 2007. At that time, the Society advised the Board that it intended to challenge its jurisdiction to hear the application. The Board determined that it had jurisdiction to hear the complaint that the Society failed to give proper reasons as to why it did nothing further with regard to an alleged suicide note written by his children's mother. The Board ruled that this issue was not before the courts. The Board held further that the applicant was not required to complain to the Society first about this issue. The hearing then proceeded on this complaint.

The Decision

The Board held that given the seriousness of the concerns engendered by the alleged suicide note, the Society should have provided the Applicant with reasons for its decision regarding their follow-up actions related to that note as this would have ensured that the applicant was provided with all of the reasons for a decision that affected his interests. The Society was ordered to provide the applicant with written reasons related to its decision regarding the alleged suicide note, within three months of the date of the decision.

*This decision is included in the Annual Report because the Board received the application during the 2006/2007 fiscal year.

R. W. and R. W v. Children's Aid Society of Toronto,

March 21, 2007

The Facts

The applicants were foster parents with a service contract with Alliance Youth Services ("Alliance"), a licensed foster care service provider. The Children's Aid Society of Toronto (the "Society") purchased services from Alliance. On January 24, 2007, Alliance terminated the service agreement with the applicants. The applicants contacted the Society to become foster parents. The Society refused. On January 31, 2007, the applicants filed an application with the Board under section 68.1 of the *Act*. The Board determined that the application was eligible on February 4, 2007. On February 13, 2007, the Society submitted that the application should not be heard by the Board because the applicants did not seek or receive a service from the Society. The Board received the applicants' response on March 6, 2007. The Board conducted a written review of the application.

The Decision

The applicants, as foster parents with Alliance, did not seek or receive a service under the *Act*. Rather, they were service providers. Similarly, when the Applicants approached the Society to become foster parents, they were not seeking a service: they were requesting the opportunity to provide a service. Because the applicants did not seek or receive a service from the Society, they could not bring a complaint under section 68.1 of the *Act*.

K.R. v. Children's Aid Society of Hamilton,

February 28, 2007

The Facts

K.R. filed an application with the Board on December 28, 2006 under subsections 68(5) and 68.1(4)4 of the *Child and Family Services Act* (the "Act") involving the Children's Aid Society of Hamilton (the "Society"). The applicant alleged that the Society had refused to hear her complaints through its internal complaint process because she had, at one time, filed a civil lawsuit, and she was not given the opportunity to be heard when decisions were made relating to the apprehension of her children and their placement. The application was determined to be eligible on January 4, 2007 and a pre-hearing conference was held on February 7, 2007. A hearing took place on February 16, 2007.

The Decision

The applicant made numerous complaints to the Society prior to November 30, 2006, including complaints relating to an alleged illegal apprehension of her children and access issues involving her children. The applicant requested that the Board review these complaints. As these complaints were made to the Society under its internal complaint process prior to November 30, 2006, the Board had no jurisdiction to review them under section 68(13) of the *Act*.

The applicant also complained directly to the Board that one of her children was not being transported safely while with the child's biological father and another child had not been in school for two and one-half months. These concerns were raised with the Society for the first time in January 2007. Prior to this, the applicant brought an additional complaint to the Society in December 2006, but the Society refused to deal with it because she had filed a civil lawsuit. The Board found that there was no evidence that a civil lawsuit had been filed. The Board held that it had jurisdiction over these complaints and ordered the Society to proceed with the complaint and provide a written response to the applicant in accordance with the requirements of the legislation.

Section 61

B.B. v. Lennox and Addington Family and Children's Services, January 22, 2007

The Facts

B.B. provided foster care to D.M.L. and his sister for five years. On December 6, 2006, B.B. received notice from the Lennox Addington Family and Children's Services (the "Society") proposing to remove D.M.L. from her care after complaints were made by other foster parents during a recent trip to Florida. The Society did not seek to remove D.M.L.'s sister from foster care. B.B. applied to the Board to review the proposed removal of D.M.L. on December 14, 2006. The application was heard by the Board on January 11, 2007.

The Decision

The Board decided that it was in D.M.L.'s best interests to remain in the foster care of B.B. as he would stay in the family unit where he had been for five years. The Board held that the solid ties with B.B.'s family outweighed the weak evidence adduced by the Society regarding B.B.'s behaviour during the trip to Florida. The Board directed the Society not to carry out the proposed removal of D.M.L.

Section 144

C.DR. and C. DR. v. Native Child and Family Services of Toronto,
June 12, 2007

The Facts

On March 7, 2007, the Native Child and Family Services of Toronto (the “Society”) advised the applicants that their application to adopt H.A.P., a native child, was refused. The Society refused the application because it wanted to place H.A.P. with her paternal great aunt E.P. who lived on the reserve. The applicants filed their application with the Board on March 14, 2007 asking for a review of the Society’s decision. The Society argued on the review that the Board’s jurisdiction was limited to a determination of whether or not the Society’s decision was correct or a reasonable exercise of the Society’s obligations with respect to placing a child for adoption. The Society took the position that the Board had no jurisdiction to determine which placement was in the best interests of the child.

The Decision

The Board held that its powers, set out in section 144, directed it to make a determination based on the evidence before it, including evidence that may not have been known to the Society when it made its decision as to what action was in the best interests of the child. The Board held that its jurisdiction was not limited to determining the reasonableness of the Society’s decision as the Board did not have supervisory jurisdiction over the Society. The Board held that supervisory jurisdiction was limited to the court on judicial review.

Based on the evidence before it, the Board held that it was in the best interests of H.A.P. to confirm the decision of the Society. The Board held that her relationships by blood, as well as her native background, should be given special attention. In this case, the Board determined that the cumulative effect of the family ties and the relationship by blood that E.P. offered, as well as the possibility of preserving H.A.P.’s native culture, was determinative. As such, the Board upheld the Society’s decision to refuse the application to adopt H.A.P.

Some important conclusions to be drawn from the Board's case law during the early beginnings of its expanded mandate:

Section 68

- The Board has no jurisdiction to review complaints made prior to November 30, 2006 where the society has engaged its internal complaints procedure;
- In order for section 68 to apply, the applicant must have sought or received services from a society. Parties providing a service (as opposed to seeking or receiving a service) cannot bring a complaint under sections 68 and 68.1;
- A direct complaint under section 68.1 can be made to the Board where an applicant alleges that a society failed to provide reasons for a decision made by the society that affects the applicant's interests. An applicant is not required to complain to a society first;
- Section 68.1 does not apply where decisions are made by third parties without a society's involvement because those decisions do not involve a service provided by a society;
- The Board has no jurisdiction where the subject matter of the complaint is before the Court. However, the mere fact that the applicant may be a party before the court does not satisfy this requirement. The actual subject matter of the complaint must be before the court. Similarly, the subject matter before the court is not satisfied by simply alleging the court is dealing with a child protection or custody/access application that involves the applicant. Again, the subject matter of the complaint must be part of the particular application before the court.

Sections 61 & 144

- For applications reviewing a society decision under sections 61 and 144, the society must present its evidence first. Applicants are unable to call their evidence first because they are not in possession of all of the evidence relied upon by the society when making its decision;
- The Board's jurisdiction under sections 61 and 144 is not limited to a review of the reasonableness of a society's decision. Rather, the Board must determine what action is in the child's best interests.



BOARD MEMBERS

GILBERT, SUZANNE Chair (October 2006 – October 2008)

Suzanne Gilbert was appointed full-time Chair of the Child and Family Services Review Board / Custody Review Board on October 18, 2006.

Ms. Gilbert is a lawyer and member of the Barreau du Quebec. She obtained a «Licence en droit» from the University of Montreal, and a Masters in Health Law from the University of Sherbrooke.

Ms. Gilbert has extensive experience in the practice of law especially as it relates to criminal law, youth protection, adoption matters and administrative law. She was appointed counsel for a large number of children in a Provincial Inquiry Commission that investigated allegations of sexual abuse involving staff in a group home. She has also acquired significant knowledge about public administration at both municipal and provincial levels.

Prior to joining the Board, Ms. Gilbert was Assistant Deputy Chair of the Toronto Office of the Immigration and Refugee Board of Canada (IRB), Refugee Protection Division. During her ten years with the IRB, Ms. Gilbert held positions as member and coordinating member of the Refugee Protection Division.

SCHEDLICH, RUTH ANN - Vice Chair (August 2001 – October 2012)

Ruth Ann Schedlich, served as a trustee on the Durham District School Board for eleven years and as Chair and Vice Chair of the School Board. She served as acting part-time Chair and Vice Chair of the Child and Family Services Review Board and the Custody Review Board.

Ms. Schedlich was a director on the Ontario Public School Board's Association, The Learning Partnership and the Community Development Council of Ajax/Pickering. For the past six years she has worked with primary, junior and intermediate children in treatment classes at Grove School in the Durham District School Board. Ms. Schedlich was appointed as full-time Vice Chair of the CFSRB / CRB in February 2007.

DIAZ, DENYSE - Vice Chair (October 2006 - October 2008)

Denyse Diaz practiced family law in the Durham Region and frequently appeared on behalf of the Office of the Children's Lawyer in custody/access disputes and child protection matters. Ms. Diaz holds a Bachelor of Science from the University of Toronto, a Master of Social Work (M.S.W.) from Laurier University and a Bachelor of Laws (L.L.B.) from Osgoode Hall Law School. Ms. Diaz continues to be an active member of the Ontario Legal Aid Plan, Area Committee in Oshawa and the Durham Region Law Association.

WHITE, WENDELL (March 1999 – September 2012)

Wendell White began his career as an elementary school teacher in Simcoe County followed by five years in the Northwest Territories. While teaching in the NWT Mr. White was recognized by the Canadian Teachers' Federation for the creation of a Dene cultural program. The Government of the NWT recognized his educational work with a Dedicated Service Award. Mr. White has been the director of Camping and Outdoor Education with a residential camping organization since 1981. He is the past chair of Loyalist College and in 2004 received his Masters of Law degree from Osgoode Hall Law School specializing in Alternative Dispute Resolution.

ROGERS, WALTER (July 2005 – July 2008)

Walter Rogers has over 30 years experience as a Social Worker and is currently a Case Manager at the South West Community Access Centre (Elgin) in the department of Community & School/Paediatrics. Prior to this, Mr. Rogers was the Executive Director of the Child and Family Assessment and Treatment Centre of Brant County, Program Manager of Sarnia Lambton Centre for Children and Supervisor of William Roper Hull Home in Calgary Alberta. He served as Chair of Clarke Road Secondary School Parent/School Council, Co-Chair of the Richmond Row Business Association and is a member of the Ontario Society of Adjudicators and Regulators. He is the recipient of a Governor General of Canada Award for Community Service. Mr. Rogers holds a Master of Social Work Degree from the University of Calgary, a Diploma in Child Care from Fanshawe College, London, along with a Certificate in Management and Administration (Honours) from the Canadian Institute of Management in conjunction with The University of Western Ontario, Richard Ivey School of Business.

DOKUCHIE, GILDA (October 2005 – October 2008)

Gilda Dokuchie is a Saulteaux from the Key First Nation community in Saskatchewan. She has resided in the City of Thunder Bay since 1970 and is presently employed with Anishnawbe Mushkiki Mental Health Services. Ms. Dokuchie has ten years experience in the mental health profession as a counsellor and program coordinator. She previously worked for the Children's Aid Society developing programs for Aboriginal families.

SIMON, DEBORAH (October 2005 – October 2008)

Deborah Simon is a Professional Speaker, Life Coach and Author working with young people and their families. Ms. Simon is an active member of the community and currently volunteers with several organizations involved in Adult Education including Facilitation Inclusion Program at St. Joseph's Immigrant Women's Centre.

GATES, JOHN (October 2005 – October 2008)

John Gates retired in 2004 following a 32-year career as a secondary school teacher. Throughout his career, Mr. Gates focused his community involvement in providing extra-curricular activities for youth in the fields of sports and recreation. He coached at both the school and community level and served on the Kincardine Recreation Board for 4 years and the Ontario Municipal Recreation Association Board of Directors for 10 years where he earned the Lieutenant Governor's coveted Gold Corps d'Elit Award. Mr. Gates has instructed for the National Coaching Certification Program throughout southwestern Ontario, providing solid footing for new coaches in the basics of sportsmanship, fair play and equal opportunity for all participants. Since retirement Mr. Gates has assisted in a leadership role with the executive of the Kincardine Scottish Festival and with fund-raising efforts for the Women's House Serving Bruce & Grey.

GRIFFITHS, DAVID (April 2006 – April 2009)

David Griffiths holds a Bachelor of Science in Industrial and Manufacturing Systems Engineering and is currently a Program Manager with Symcor Inc. and pursuing a part-time MBA at the Schulich School of Business. Mr. Griffiths is a community pioneer who has been actively involved in community development initiatives for over 16 years. He is the former President of the Jamaican Canadian Association and is currently a member of the Toronto City Summit Alliance Steering Committee and board member of Operation Black Vote Canada.

KING, LORNA (April 2006 – April 2009)

Lorna King has held various sales and management positions in the hotel industry for twenty five years. Ms. King is an active member of the community, has volunteered extensively and is currently the President of P.A.C.E .(Canada).

BUTLER, DONALD (December 2006 - December 2008)

Donald Butler has been an Incumbent at The Church of the Nativity since 1991. Prior to this, Mr. Butler was an Assistant Priest at The Church of the Epiphany, a Priest at St. James' Cathedral, Senior Priest at St. John's Cathedral in Antigua and Associate Priest at St. Mary's Church in Belize. His community involvement includes working with Deans of Trinity College's ad hoc Committee on Theological Education of Blacks, The Black Anglican Coordinating Committee, and as the Community Chaplain at Scarborough Centenary Hospital.

GREENIDGE, CATHERINE (October 2004 - October 2007)

Catherine Greenidge has many years of experience in the field of Child Welfare as a clinician in Quebec and as a probation officer in Young Offenders Services for Batshaw Youth and Family Centres. She also served as a cultural sensitivity trainer and cultural and clinical consultant on the agency's treatment team. Ms. Greenidge is currently under contract with Child and Family Services of the County of Renfrew as a case supervisor for Crown wards. Ms. Greenidge has been appointed to the Child and Family Services Review Board and the Custody Review Board. In March 2007, she was appointed solely to the Custody Review Board.

LINLEY, RICHARD (December 2006 – December 2008)

Richard Linley was called to the Ontario Bar in 1975 and since then, has practised Real Estate, Wills and Trusts, Private Corporation, Criminal and Family Law. Mr. Linley has served as a Municipal Councillor and as a member of Board of Health, the Children's Aid Society and the Public Library. He holds a Bachelor of Arts from the University of Western Ontario and a Bachelor of Laws from the University of British Columbia.

SANDERSON, FRANCES (December 2006 – December 2008)

Frances Sanderson is currently the Executive Director at Nishnawbe Homes Inc. Prior to this, Ms. Sanderson was Vice President of Publicity and Advertising at Bowlerama Limited. Her community involvement includes serving on numerous boards and committees, including the Toronto Aboriginal Affairs Committee, the George Brown Aboriginal Education Council, the Toronto Police Service Aboriginal Consultative Committee, the Chief's Advisory Committee and C.O. Bick College.

SIMA, FIZUL (December 2006 – December 2008)

Fizul Sima is the Chair of the Long Term Strategy Committee for the National Council of Aboriginal Federal Employees and President of Local 0137 of the Public Service Alliance of Canada. Mr. Sima is a Civil Servant with the Government of Canada and holds a Bachelor of Arts from the University of Toronto, a Bachelor of Laws from the University of Saskatchewan and is working towards a Master of Business Administration. He has been the recipient of numerous awards and honours within North America for social justice causes.

DENOV, CELIA (February 2007 – February 2009)

Celia Denov has over thirty years of experience working in the fields of social services, health and women's issues. After working for the Ontario Public Service for 25 years, Ms. Denov retired at the level of Assistant Deputy Minister, Ministry of Community and Social Services in 2000. Ms. Denov was formerly a secondary school teacher in Tanzania with CUSO. Ms. Denov is currently working in public policy. She holds a Master of Social Work from the University of Toronto.



