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of the

Legislative Assembly of Manitoba

Subcommittee of the Standing Committee

on

Privileges and Elections

*Chairperson
Mr. Peter Dyck
Constituency of Pembina*



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Thirty-Sixth Legislature

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LEGISLATIVE ASSEMBLY OF MANITOBA

**THE SUBCOMMITTEE OF THE STANDING COMMITTEE
ON PRIVILEGES AND ELECTIONS**

Tuesday, April 22, 1997

TIME – 10 a.m.

LOCATION – Winnipeg, Manitoba

CHAIRPERSON – Mr. Peter Dyck (Pembina)

ATTENDANCE - 5

Members of the Committee present:

Messrs. Dyck, Helwer, Kowalski, Martindale,
Tweed

APPEARING:

Ms. Diane McGifford, MLA for Osborne
Mr. Wayne Govereau, Children's Advocate
Ms. Roma Minenko, Deputy Children's Advocate

MATTERS UNDER DISCUSSION:

Representation from the Children's Advocate, Mr. Govereau, concerning the review of the sections of The Child and Family Services Act pertaining to the office of the Children's Advocate.

Mr. Chairperson: Good morning. Will the Subcommittee of the Standing Committee on Privileges and Elections please come to order. This morning the subcommittee is meeting to hear specifically from the Children's Advocate, Mr. Wayne Govereau, concerning the review of the sections of The Child and Family Services Act pertaining to the office of the Children's Advocate.

Today the subcommittee will be hearing from Mr. Govereau only with future meetings to be scheduled to receive submissions from the public. For Mr. Govereau and Mr. Govereau only, is it the will of the committee

to waive the agreed-upon time limits of 20 minutes for presentations and 10 minutes for questions and answers? [agreed]

Before I go any further though, I would just like to introduce the people at the table here. Mr. Merv Tweed there, he is the MLA for Turtle Mountain. Mr. Ed Helwer is not here; he is for Gimli. To my right here, at the far end, is Mr. Gary Kowalski, the MLA for The Maples; Ms. Diane McGifford, the MLA for Osborne; and Mr. Doug Martindale, MLA for Burrows.

It is a privilege for me to introduce to the Standing Committee on Privileges and Elections of the Manitoba Legislative Assembly the process to be utilized in the review of the office of the Children's Advocate. This review is in accordance with the requirements of the section of The Child and Family Services Act which pertains to the Children's Advocate.

I would like to first mention that the position of the Children's Advocate was established by the amendment to The Child and Family Services Act in June of 1992. The legislation governing the position was proclaimed in May of 1993.

The primary function of the office of the Children's Advocate, as set out in the legislation, is to represent the rights, interests and viewpoints of children and youth involved in the Child and Family Services system. The Children's Advocate has the duty of advising the Minister of Family Services on matters relating to the welfare and interests of children who are receiving services under the act. The position also responds to and investigates complaints relating to children who are receiving or are entitled to receive services.

One of the provisions of this legislation is that within three years of coming into force, a committee of the Legislative Assembly shall undertake a comprehensive review of that part of the act which governs the Child's

Advocate. I am pleased to Chair the committee which will review this important legislation. The process is to be a public review and, accordingly, public meetings will be scheduled in Winnipeg and in several rural Manitoba communities. Rural communities currently being considered include Morden, Beausejour, Brandon, Thompson, and The Pas. I would like to add that arrangements might also be made to hold meetings in other Manitoba communities if there is a sufficient number of people who wish to be heard on this matter.

The committee will be accepting both written and oral presentations and may employ means such as video conferencing to obtain views from Manitobans in areas where public meetings cannot reasonably be accommodated. The public has been informed of the review and of the process for registering and submitting presentations on this matter through the placement of advertisements in newspapers throughout Manitoba. The public meetings will take place in the next few weeks, and it is the intention of the committee to report to the Legislature by May 30.

The views of Manitobans will be considered with respect to possible amendments to this legislation. Through this process Manitobans will have the opportunity to present their views directly to the members of the Legislative Assembly. By travelling throughout the province, we hope to make this review process accessible to all Manitobans who wish to present their views on the issues related to the office of the Children's Advocate.

I am pleased to welcome the Children's Advocate, Mr. Wayne Govereau, to the first meeting of the committee for the discussion of his role and the function of his office. I understand that Mr. Govereau has some literature he would like to provide for our information and some comments he would like to share with the committee members as we begin our review.

I now call on Mr. Govereau to make his presentation to the committee, and I would ask him to introduce his staff that are in attendance, please.

Mr. Wayne Govereau (Children's Advocate): Good morning, Mr. Chairman, honourable members. First I would like to introduce my two staff, Ms. Roma Minenko and Ms. Theresa Hammerback.

Before I submit my presentation, I have provided the members in the committee with the compilation of information that not only includes my legislation and some information about our program but, also, I tried to provide as much information about advocacy in Canada by providing legislation from other provinces as well. So hopefully that is of assistance to the committee.

As you are aware, I was appointed as Manitoba's first Children's Advocate on December 12, 1992. The legislation governing this program was proclaimed on May 3, 1993. In short, the duties of my position are to advise the Minister of Family Services (Mrs. Mitchelson) relating to the welfare and interests of children and regarding the services provided to them under The Child and Family Services Act; to review and investigate complaints on behalf of children and youth; to represent, other than as legal counsel, their rights, interests and viewpoints. As well, I am required to submit an annual report to the minister.

The past four years have been both tremendously rewarding and frustrating to staff and myself in attempting to provide quality advocacy services on behalf of Manitoba's children and youth. The rewards have come from knowing that my office has made a positive impact on the lives of 2,000-plus children and youth for whom we have served.

Giving children a voice while protecting their rights is a fairly new concept in the practice of child welfare. Previously the system existed to protect children from neglect and abuse. Now, it is these very same children who now require this same form of protection from the system itself. This is clearly evident given the volume of requests my office has received over the past four years and where our intervention has highlighted a number of concerns regarding questionable case planning, lack of care or treatment plans for children, maltreatment and abuse of children in care and, sadly, even child deaths.

While our involvement has not always been welcomed with open arms and our role to this day continues to be questioned in being an independent voice for children or because we have had to undertake formal investigations into particular matters, a majority of workers and collateral professionals and clients of

the system have acknowledged and validated the need for an existence of our program.

To this end, many workers are not only referring matters to our attention by advising clients of their right to contact the Children's Advocate, but they are now also requesting our involvement in the initial stages of case planning. As a consequence, our advocacy efforts have been most effective on an individual case basis.

* (1010)

As some members of this subcommittee may recall, the creation of the office of the Children's Advocate had been preceded by a number of high-profile events. We had the inquest into the death of Lester Desjarlais, an aboriginal boy from Sandy Bay, wherein the presiding judge was highly critical of the actions or lack thereof of both the agency and the provincial director. We also had a concerned mother erect a teepee on the Legislative grounds to protest and bring attention to her concerns that her children were being returned to their abusive father, who is a well-known chief. Furthermore, we had the examination of allegations of abuse of children in residential care undertaken by Colleen Suche, who made a number of important recommendations, a number of which still have not been acted upon.

As such, public confidence in how Manitoba's Child and Family Services system was operating and how it was not being held accountable was at an all-time low. The calls for accountability by the system required immediate attention by government.

The present legislation governing the Children's Advocate, I assume, has been a sincere and honest attempt to respond to a system in crisis. Unfortunately, the dichotomous mandate upon which this office was created has proved frustrating, hindering the ability of my office to truly effect change on behalf of children.

This dual authority includes both an advocacy, though not pure advocacy, and a quasi child ombudsman function, each with their own inherent limitations under the existing legislative framework.

Our advocacy powers, while typical of what is accepted as advocacy work, is limited to the best

interests of the child. Manitoba's legislation is the only legislation in Canada where advocacy services for children are based on a child's best interest, despite the fact that there are many other adults, parents, workers, the courts, who are vested with the authority to make a decision on what they believe to be in a child's best interest. As a consequence, my office is not truly an independent voice for children, as we are required to make subjective decisions regarding the extent of our advocacy efforts based upon the "best interests" definition and not necessarily on the views and preferences of children and youth.

Secondly, our advocacy efforts on behalf of children involved in the Child and Family Services system is offset by our inability and lack of mandate to effect change from other service systems providing services to these same children, for example, education, health, mental health, and justice.

Regarding our quasi child ombudsman powers, my office can literally investigate each and every matter to no avail, as we are limited to merely making recommendations. The Children's Advocate cannot issue directives, order redress, or order compliance with any recommendations made on behalf of children and their particular situations. As such, these investigative powers serve no real purpose.

We recognize that both an advocacy role and a child ombudsman role are equally important and needed within the Child and Family Services system. However, they should not be enmeshed within the same legislative framework.

When one examines other Child Advocacy legislation across Canada, it is clear that while all have some investigative capacity, these powers are worded less formally and often coupled with other less intrusive conflict-resolution methods in providing advocacy on behalf of children.

As a consequence, my office has had to endure four years of wearing two hats at one time. On one hand, we are to act as an independent voice for children in order to represent their rights and interests, while on the other hand, we are bound to review and investigate complaints which may simply result in making recommendations. The Children's Advocate does not even have the authority to decline or refuse to

investigate complaints which may be considered malicious, vexatious or frivolous. Nevertheless, it has been our experience that the current legislative framework infers, and the general public expects, the Children's Advocate to hold the system accountable even though we do not have the tools to do so.

Accountability and adherence to legislation and program standards have always been the domain of the provincial director of Child Welfare and Family Services. However, our experience and that of most of the people who have contacted our office has been a hands-off approach or a minimization of matters for political expediency by that office, despite the existence of blatant problems within the system. As such, when my office intervenes in response to a complaint, we are left with no alternative but to attempt to hold agencies and workers accountable to the children and families they serve, even if this means making unenforceable recommendations.

There has been much fallout and backlash that my office has had and continues to endure, as a result of both being an advocate and an investigative body. You will hear criticism that my office is insensitive, too demanding and possibly ignorant of cultural differences. While I am the first to agree that style and presentation are keys to forging positive working relationships with those in the system, these allegations stem from an inability on the part of some agencies and workers to accept the fact that children have rights, and as service providers there will be times when they err, and they need to be held accountable for the actions and decisions they have made on behalf of Manitoba's children and families.

To further illustrate this criticism, a few of the First Nations agencies have now played the race card, levelling allegations of racism and disrespect of their cultural ways by my office. As an aboriginal person, I find these allegations disheartening and can reassure the subcommittee that there is no basis for these allegations. For too long, it has been politically incorrect to examine or criticize how First Nations go about providing services to their own children. Have we not learned the lessons from the death of Lester Desjarlais?

While I appreciate that the healing process which is taking place amongst aboriginal communities is critical

in response to the legacies of the residential school system and other assimilative policies of past governments, including past child welfare policy, I cannot with a sincere heart and peace of mind ignore the plight of aboriginal children, many whom are now receiving services at a lower quality by their own agencies. Now I have handwriting to read.

Aboriginal children who remain the majority of children within the Child and Family Services system require, may demand, improved service responses from all agencies, including their own without the minimization of their individual rights and interests. Consequently, we have had involvement and will continue to have involvement in situations where the individual rights and vested interests of an aboriginal child have been in conflict with the collective interests of the aboriginal community.

Furthermore, all the incidents which have led to allegations of racism against my office have been associated with matters relative to poor case planning, inappropriate reunification of children into risky situations, lack of proper preparation and transitioning of aboriginal children back to their home communities, denial of the rights of aboriginal children to have significant enduring relationships with past care providers who are not aboriginal, and the continued placement of aboriginal children, particularly those with special needs, into aboriginal homes simply for the sake of preventing further genocide despite the inability of many of these aboriginal care providers to meet the specific needs of such special children.

The cultural needs of aboriginal children are equally as important as that child's need for nurturance, stability and permanence, and all must be equally assessed when making case and placement plans on their behalf.

My personal experience in having worked early on in my career with First Nations communities is that culture alone will not save and advance healthy aboriginal children, if their other needs are not being met. Many elders have taught me to look at the whole child and not just the colour of his or her skin but rather as a human being, a gift from the Creator for whom we are all responsible to teach and care in our utmost capacities.

Prior to listing specific recommendations for this subcommittee's consideration, I wish to express my sincere appreciation for being afforded the opportunity to serve as Children's Advocate for the past four-plus years. I have attempted to do my best in fulfilling these duties and powers. While the messages and statements I have had to often make have not always been positive and pleasant for my minister, this government, this system, and the general public to digest, they were necessary to ensure that Manitoba's children and youth could be assured that they counted and someone would give voice to their rights and needs.

I do have a list of recommendations.

First recommendation: Any legislation regarding child advocacy and/or child ombudsman authority should be stand-alone legislation and not enmeshed in other existing statute.

Second recommendation: The authorities of a Children's Advocate and a child's ombudsman must be clearly and separately defined in their own specific legislation to ensure a distinction is made regarding each unique role; for example, Children's Advocate should do pure advocacy, and it should be the child ombudsman who has the authority to investigate and ensure that there is some sort of compliance with recommendations.

* (1020)

The third recommendation: That both the Children's Advocate and a child's ombudsman be required to report to the Legislative Assembly as officers; that the mandates of both the Children's Advocate and the child's ombudsman include all children's issues and rights across all government departments, agencies and services; that a term of office for each position be established with a possibility of further reappointment; that the authority of the children's ombudsman mirror that of the existing provincial Ombudsman with the view of focusing specifically on children and youth in Manitoba.

That the following emphasis be included in any legislation respecting the Children's Advocate: (a) no limitation based on best interests, (b) enhanced education and promotion of children's rights within

government and the public; that the Children's Advocate provide an annual statement regarding Manitoba's continued implementation and adheres to the UN Convention on the Rights of the Child; promotion and support to natural advocacy systems and networks that may already be in place for children; the inclusion of problem solving, conflict resolution and mediation as primary intervention strategies as opposed to the investigative authorities which would now be lodged with a child's ombudsman; ensure that operational and human resources are appropriate to meet the needs of rural, northern and aboriginal populations. For example, having the ability to create field sites, ensuring that I have additional staffing positions to employ aboriginal people who can speak either Cree or Ojibway. As an aboriginal person, unfortunately, I cannot.

That the records and staff of the Children's Advocate and that of the child ombudsman are protected and are not subjected to court orders; provide more discretion regarding the need to provide formal reports as well as to allow the Children's Advocate to publicly comment—unfortunately, that has not stopped me to date—and ensure there is a program capacity for research and monitoring of systemic issues affecting the lives of children and youth; ensure that a mechanism exists whereby government must respond to systemic issues within an identified period of time.

Give the Children's Advocate greater authority to examine legislation and policies and to make recommendations for change within those. Allow the Children's Advocate to have the capacity to make or enter into agreements for the provision of advocacy with other departments, agencies or community organizations.

Finally, before I fell asleep last night, the Children's Advocate should be responsible for the annual co-ordination and celebration of National Children's Day, which is November 20, with an appropriate budget to ensure that can occur.

I am prepared to answer questions or elaborate on anything I have said.

Mr. Chairperson: Thank you very much for your report. We are open for questions.

Mr. Doug Martindale (Burrows): Thank you, Mr. Govereau, for a very interesting report and recommendations. I feel I am at a bit of a disadvantage in having to discuss and ask questions with something that I do not have printed in front of me, and I am wondering if the Clerk's office could photocopy the document that Mr. Govereau has and distribute copies to all members. Is that possible?

I guess I can start. I will start with some questions. I wonder, Mr. Govereau, if you could explain what you meant near the beginning when you said that your office is not independent since you are limited to definitions of the best interests of the child.

Mr. Govereau: We are not independent in that we cannot advance an opinion or view of a child that is contrary to his best interests. There are a number of people or adults in the child's life who already have that responsibility, and as such they make the decisions based on best interests. If we compare current legislation here in Manitoba with that of the Advocate from Alberta, they are not bound to limiting advocacy efforts based on best interests, but advancing a child's position, where that position may or may not be in the best interests of the child, and is up to the decision makers in that child's life to weigh all that information before a decision is made.

Mr. Martindale: By best-interest definitions, you mean the best interests of the child definitions in The Child and Family Services Act.

Mr. Govereau: Yes.

Mr. Martindale: And there are situations where you would prefer to take the viewpoint of the child, whether or not other people in the system, or even yourself, thought that was in the child's best interests, but because you believe you are to be a children's advocate, that sometimes it would be appropriate to put forward the case or advocate whatever the child wants. Is that what you are saying?

Mr. Govereau: Yes. If we are bound by limitations of best interest, the ability or the confidence for children and youth to approach our offices is compromised, because we cannot truly be an independent voice for them, and we become yet another adult body that sort

of regulates or puts limitations on their capacity to help them express their own opinion and their own point of view.

Mr. Martindale: Do you believe that the other way that you are not truly independent is that the legislation requires that you report to the minister rather than to the Legislative Assembly?

Mr. Govereau: It definitely places some limitations, because the children we are involved with are children who cross many service sectors of government departments, and we can only impact, or possibly have positive impact, within the child welfare system.

Mr. Martindale: So the advantage or reporting to the Legislative Assembly is not only because you would be reporting to the Assembly as a whole rather than one minister, but because there are a number of government departments involved. Maybe you could explain to me how that would give you more independence regarding a number of government departments, not just one.

Mr. Govereau: Well, right now, many of the children who are involved in the child welfare system suffer from a number of—I should not say suffer, but have a number of problems that are either mental health, are involved in juvenile corrections. We have a number of children who have fetal alcohol syndrome, or fetal alcohol effect who require ongoing services from other departments beyond the capacity of Child and Family Services agencies to provide, and these children, unfortunately, in terms of accessing those services, have no voice. As the Children's Advocate, we can only advocate for what Child and Family Services can do for them, not what Health can do for them, not what Education can do for them, or not what Justice can do for them. So in that vein, our role as an advocate for these children is limited.

Mr. Martindale: I have always been quite pleased as the opposition critic at how strong your annual reports have been and how outspoken you have been. It came as a pleasant surprise I guess, because one of the arguments that I used, and my colleagues used, in having a private members' bill to amend the legislation so that the Advocate would report to the Legislative Assembly was that we would not know what your recommendations were. I guess we did not anticipate

that the reports were going to be public, and secondly, we did not anticipate the number and variety and strength of the recommendations that you did make.

I am wondering if you think that to some extent this depends on who the individual is. I mean, conceivably, it is possible that some future advocate may not feel as strongly about issues or may not have the courage to speak their mind and that therefore the reports could be quite different. So the advantage of reporting to the Assembly is that the individual in that office would no longer feel any sort of restraint because they are reporting to a particular minister.

Do you think there is an advantage in reporting to the Assembly simply because it enables the Advocate to speak more freely?

Mr. Govereau: Absolutely. As you indicated, Mr. Martindale, I did take liberties and I continue to take liberties with my position in being a public voice for children in this province and, yes, it probably depends in part on who the person is. I could not honestly fulfill this job and do this job if I did not feel that I should sometimes and often have made public comments on behalf of children and what is happening to them in the child welfare system.

So, yes, I truly believe, should this position report to the Legislative Assembly, whether that person continues to be me or another appointee, then hopefully that person will have the capacity to feel free to comment on all children's issues in the province.

Mr. Martindale: You are also hired at the liberty of the minister and could be fired at the liberty of the minister whereas, if the individual reported to the Assembly, presumably we would follow other precedents like the ombudsperson legislation and there would be a set term of office which could be renewable, which I think you recommended in one of your recommendations. Is that right?

Mr. Govereau: That is correct.

*(1030)

Mr. Martindale: You mentioned conflict resolution methods several times. Is it your recommendation that

this be put in the legislation, that the sorts of solutions to problems could actually be legislated and, therefore, a part of your mandate?

Mr. Govereau: Yes, absolutely. I think we need to look at the legislation from B.C., which is in the big, black binder. I cannot remember what tab number. But the Child and Family Youth Advocate from B.C. actually has a statement in legislation where she is required to the extent possible engaged in the least intrusive interventions that include problem solving, family joint conferencing, conflict resolution as ways to advance children's viewpoints and rights as opposed to going in as an authoritarian figure, and in my case right now, going in as an authoritarian figure to invest and only make recommendations and not know if anything can be done about them because we cannot enforce them.

Mr. Martindale: You said that there is an expectation that you hold the system accountable, which you cannot do under the current legislation. Who do you think is putting that expectation on you? I wonder if you could expand on that a little bit.

Mr. Govereau: The issue of accountability within Child and Family Services, I think, has a long history, and in my 15-plus years as a social worker and having worked in this system, I can speak to personal experience, that having worked at the field level in the agency where I worked, we did not view the directorate, the Child Welfare and Family Support branch of the Department of Family Services, as a body to whom we had to officially report and be accountable in terms of standards and delivery of services. That fallacy, unfortunately, still exists in the system.

Our system for the tenure of my involvement has always been a hands-off approach by those persons who are vested with the responsibility to monitor that system, ensure competence and quality of services are provided. So when the Children's Advocate came into existence, rightly or wrongly, the public expected that the Children's Advocate can now somehow ensure accountability in the system. I think there was an honest attempt, by giving the advocate some investigative authority to look at some of the issues and concerns within the Child and Family Services system,

how decisions were made on behalf of children and how their lives were being impacted. Unfortunately, the legislation limited the Children's Advocate to simply make a recommendation and no mechanism to ensure that that recommendation would be complied with.

Right now, when we do investigations, we make a copy of the report, give it to the director of Child Welfare and Family Support. I do not know what he does with it. I cannot follow up. I do not have a capacity to follow up. I cannot ask him like the Ombudsman can now ask agencies and government departments for some sort of response in terms of how they have responded to his recommendations. I do not have that capacity.

So, in essence, while there is an expectation that the Children's Advocate can and will hold the system accountable on behalf of children and youth, in reality we cannot. So we become, I think we end up making more noise than anything else and create an image that we are holding the system accountable and, I think, indirectly, by being as public in this position as I have, I think we have brought accountability to the system because we did not have any authority otherwise.

Mr. Martindale: I take it you would like to be able to hold the system accountable but you believe that it would require amendments to the legislation.

Mr. Govereau: Yes, I do, but I do not believe that the concept of advocacy and investigative authority should be enmeshed in the same legislation. The system needs some sort of monitoring capacity to oversee it, whether that be through the existing Provincial Ombudsman's office who, previous to the Children's Advocate, did most of the investigations, or to ensure that the director of Child Welfare and Family Support fulfills his legislative responsibility or the creation of a child ombudsman to ensure that all children across all government departments are afforded some sort of independent investigative authority to ensure that someone can make recommendations and can follow through to make sure that those systems are responsive.

How you compare that with an advocate, the advocate would be there with the child to help that child access, say, possibly, the needs or services of a

child ombudsman to access appeal mechanisms, to go with a child to a joint planning conference with his or her social worker. That is what children need.

Mr. Martindale: So you are recommending both a Children's Advocate and a children's ombudsman? Is that right?

Mr. Govereau: Yes, I am.

Mr. Martindale: I wonder if you could expand further on the role and function of each just so that I get it clear.

Mr. Govereau: A Child Advocate would focus simply on promotion of children's rights, helping children express their points of view, their preferences in decisions that may affect them, to work with natural advocates in a child's life, who may be parents, who may be service organizations, may be communities. But a child ombudsman would be not unlike the Provincial Ombudsman in his current authorities but would strictly be focused on children and youth in Manitoba, where they have the capacity to look at issues and concerns with respect to the decisions and actions made on their behalf and can make recommendations that look at ordering some sort of redress on behalf of children, can have some capacity to ensure compliance to recommendations and can monitor the implementation of those recommendations.

If we want to be an advocate in the purest sense then we would need to separate out the investigative authority from that function.

Mr. Chairperson: Before we move on, I will just introduce Mr. Helwer, the MLA for Gimli, to Mr. Govereau.

Mr. Martindale: Aside from separating the Children's Advocate from the children's ombudsman, the main change that I hear is giving the children's ombudsman the power to order redress and enforcing compliance with recommendations?

Mr. Govereau: Yes. Right now there is no way to enforce compliance with any recommendations made by the Children's Advocate. It is at the discretion of agencies and the director of Child Welfare and the

minister as to whether or not those recommendations carry any weight and should be implemented.

Mr. Martindale: So if the children's ombudsman had compliance powers that would take precedence or override decisions made within, say, Child and Family Services agency or the Department of Family Services or Education or Justice or other government departments—is that correct?

Mr. Govereau: Quite possibly, yes.

Mr. Martindale: I would like to ask about some of the fallout that you have experienced due to your powers of investigation and advocacy. I guess this kind of comes as a surprise to me. Knowing that you do not have the power to order redress and you do not have the power to insist on compliance and that you do an investigation report, make recommendations and sometimes nothing happens, I do not understand why people would be resentful of your office or your role or be critical of you. I did hear you talk about the accusations of racism, but I am wondering if you can expand on what you meant by fallout and whether there were other examples.

Mr. Govereau: If you recall my first annual report, I talked about the public acceptance and the systems acceptance of the Children's Advocate was not unlike that when Manitoba first created the Office of a Provincial Ombudsman, where there was a question from those in the system whether or not there was a real need to have some independent or some outside monitoring body or some body to oversee their work. The unfortunate part is, and I speak as a social worker and being a member of that profession, we are probably the worst people to accept criticism of our actions. We are one of the few professional bodies in this province that does not have a code of ethics, is not bound to any professional association, and it is predominantly social workers who are employed in the Child Welfare system.

* (1040)

So there are concerns there in terms of accountability in terms of professional practices and concerns as to whether or not agencies and workers—and we have had workers tell us quite clearly that they are vested with

the responsibility to make decisions on behalf of children under The Child and Family Services Act, that no one else should interfere with that, not even the Children's Advocate, that whatever decision they make are all the right decisions and should not be open to question or comment. This, unfortunately, has been perpetuated time and time again by the inaction of the department's Child Welfare and Family Support branch in not challenging agencies when decisions were wrong or when there were problems in case planning.

Again, I go back to the example of the death of Lester Desjarlais in how there were highlighted concerns in terms of the inactions of not only the agency but the system. So there is an expectation that by involving the Children's Advocate, we are going to hold the system accountable and that many people are not prepared to accept that.

Mr. Mervin Tweed (Turtle Mountain): Just a question. In your first comment, you talked about the best interests of the child or what the child sees as the most beneficial to him as opposed to a guardian or parent or whatever. Can you give us an example of where we might see those two differences?

Mr. Govereau: I could probably give you a fairly recent example. We had a young lady, I believe 15, 16 years old, come into our office about two weeks ago, wanted to live in an independent relationship or wanted to live independent—as opposed to be in a foster placement or even Seven Oaks for that matter—but also while being independent wanted to carry on a relationship with a fellow who, I believe, was about 28 or 30 years old. While morally inappropriate we could not advance her point of view, because it was not in her best interests. So we were stopping her at our door even before she got to the agency where the agency was the one to make the decision, not us. We could not even offer her any concept that we were there as an advocate for her, or an independent voice for her, because ultimately her situation was not definitely in her best interests. So we become sort of like a precursor to the actual decision-making process before it gets to where it should be, and that is at the agency level. We could not go with her to the agency and say this is what Jane Doe says she wants, and the agency says we are not prepared to accept it. At least we have helped that child express her view to the agency, but

because of the way the legislation is now we could not even get that far.

Mr. Tweed: Do you believe that all your recommendations should be fulfilled?

Mr. Govereau: Yes, I would not make them otherwise.

Mr. Tweed: Do you believe that if you make a recommendation and it is carried through, who carries the responsibility for that recommendation further down the road?

Mr. Govereau: I am not quite clear in terms of what you mean, who carries it through?

Mr. Tweed: I guess my question would be, if you make a recommendation and it turns out to be inappropriate or wrong, who becomes responsible for that recommendation?

Mr. Govereau: Ultimately, if the Children's Advocate makes a recommendation and that recommendation is implemented and that recommendation turns out to be wrong, yes, I agree, then the Children's Advocate would also have to be held accountable for making a wrong decision or providing a wrong recommendation. I have no problem with that.

Mr. Tweed: Do you feel that—and I am asking this question just simply because I do not maybe understand it, but if you as a group or your organization does not do the investigation part of it, does that hamper or interfere with your ability to make recommendations?

I am talking more just in the involvement of it. I am sure when you do your own investigations it becomes a very thorough investigation, whereas is there a concern that if it was turned over to someone else, how would you know if it was thorough enough or complete enough. Would you be satisfied with the investigation without having to do some on your own?

Mr. Govereau: In part, you lost me halfway through your question, but let me try to answer it this way. Even without having the formalized investigative powers that result possibly in making recommendations and also in compliance to recommendations, I think, an

advocate still can present a position on behalf of a child who has been served either by the Child Family Services system, or any service system for that matter, without having need to do a formal review or formal report in helping advance that child's position to those service providers and to those decision makers. I do not know if I answered your question.

Mr. Tweed: I am not sure either. Again, just looking back through the first report that you had made, I noticed on one of the synopsis of the system, you had suggested that it is crisis driven and a haphazard approach with too much focus on protection. Can you elaborate for me on that?

Mr. Govereau: Well, I think the haphazard approach is still there. We still have kids in care in limbo sitting in placements with a lack of treatment plans, and that would be haphazard. We would have crises in that there are still situations where there is no real continuity terms in terms of service provision. The fact that in some where the agencies look at the protection, slowly at protection, and not the fact that there are concerns—or possibilities that rather than bringing children into care, are there potentials for keeping children at home if appropriate services were provided?

Again, I balanced that. You will notice in further annual reports I often say while we support the concept of family preservation, you have to have the services to support that as well. So what we have often had in Child Welfare in Manitoba is a flavour-of-the-month approach. You know, we tend to sort of focus on, in one point child abuse becomes a critical issue, that sort of thing, and the next month adoption becomes a primary policy perspective. So we tend to flip-flop back and forth in terms of the policy governing child welfare or the priorities that are placed upon the system.

We do not see child welfare as a comprehensive continuum of services, which it should be, and we tend to go sometimes the easiest routes, and sometimes it is very easy to apprehend a child and put that child into a foster placement or a motel room or whatever simply because agencies do not have the resources to always put a homemaker in the home to keep that child there. In some cases decisions were made where homemakers were put in homes where children should have been

removed. So it is, damned if you do, damned if you don't, I guess. I hate to use that sort of phrase, but it is not an easy job for anybody, and I would be the first to admit, it is not easy for anybody. There are life-and-death decisions that have to be made and they have to be made very quickly sometimes without a lot of information.

* (1050)

Mr. Tweed: Is there a process when you are making a recommendation that has to be followed in the sense of what has worked for others, or is there like a grouping of ideas—I have seen this case before and we have a process that deals with that type—or is it on an individual, day-to-day basis as far as your involvement?

Mr. Govereau: Generally it has been on a day-to-day basis. Given the volume of cases that my office handles, and I really have to acknowledge the kind efforts of my staff, it is hard to take time to reflect and start grouping things from a systemic perspective and saying these are class issues or these are broader issues. We know what they are, but we have no capacity to follow up on them. As a result we tend to, in our office, do more of our work at an individual case basis. But also I think when we are looking at situations, we will advise agencies that we have seen this happen in another case, you might want to try this as an option on behalf of a child. It may or may not be appropriate for that particular child.

Mr. Tweed: In the report '95-96, can you tell me what miscellaneous contacts would be, what it means?

Mr. Govereau: Miscellaneous contacts includes contacts we get from people who just basically want to know what we do, who we are, whether we can be of service to them. They include where we get requests for services to help a mother advocate in terms of her child, who may be an attention deficit disorder within a school system, getting special aides to work with them; issues in terms of children's rights who maybe have been locked up in Agassiz or Manitoba Youth Centre; children who have borderline mental health problems and are not getting services. It is everything outside the responsibility of the child welfare system basically.

Also within the miscellaneous we also include where we get requests where we can handle the issue just by providing information to the caller or by making a couple of phone calls back to the agency in clarifying the situation.

Mr. Tweed: Are the contacts mostly adults looking for direction to assist their children, or do you get requests from children also?

Mr. Govereau: Our contacts still tend to be primarily adults, particularly parents and foster parents on behalf of children. We have seen increasingly over the years more and more contact by children, particularly after we have had the capacity to go out and do some sort of PR work in some of the group homes and residential facilities. We must really I think acknowledge the tremendous support we have gotten from child care workers who advise children in foster homes and group homes that they have a right to phone the Children's Advocate, they have a right to talk to the Children's Advocate. So while predominantly still adults, we are seeing more and more children come to our office.

Mr. Tweed: I just noticed that the number of miscellaneous contacts has risen dramatically from '93-94 where there were 164 to today of 368, and yet the number of cases opened—are they related numbers in the sense of—your number of cases opened is going down. Is that a suggestion that you are not seeing cases that you can handle or you are referring them to other departments?

Mr. Govereau: Okay, the increase in volume in terms of the number of identified miscellaneous cases, first and foremost, has to do with better recording in terms of tracking those cases to making sure that we can account for how much time we spend on the phone and that sort of thing. I would disagree that our numbers are going down. I think in fact they are static at this point in time, but I think we are trying to do a better job at the initial intake process of screening our calls and screening our requests.

We are also trying to, I think, instill some sort of empowerment process back into many of our callers, particularly parents, by giving them the information. Many of them do not know that they can call the

worker's supervisor. You know, it is that simple. So we provide information saying this is so-and-so's supervisor. This is the phone number. If you are not happy, then you can also talk to the supervisor's agency director. So by sometimes doing that little bit, we are empowering them to be their own advocates, and we do not have to become involved. Many are more than happy with that. We also always leave the door open saying if you are still not satisfied or you do not believe your issue or your concern has been heard or addressed, you are still free to call us back. So we are also trying to do an empowerment process where parents could still be their own advocates for their own children or their own issues.

Mr. Gary Kowalski (The Maples): As you know, we are going to be hearing public submissions regarding the Child's Advocate, and then we will be making recommendations, this committee, about changes in the legislation. If you could be a member of this committee and listen to the public submissions and question the people who will be submitting, what are some of the things that you, as Child Advocate, would like to know from the public how they feel about the Child Advocate's office? What questions would you be asking to the presenters?

Mr. Govereau: Oh, geez, an ideal world, eh? I guess a number of questions I would have, one would be is the Children's Advocate doing an effective job? Is it what we expected? Is the Children's Advocate following his mandate? Is there more that the Children's Advocate could be doing for children in this province? You could no doubt—and I indicated in my presentation here, you are going to hear criticisms that we have not always made situations happy for agencies, and many have been personally offended by our involvement. So people are going to say that the Children's Advocate may be even too heavy-handed in its approach. But generally I think we would want to know—I know in the first year or so we did a lot of community education around the existence and role of the Children's Advocate and have gone out all across Manitoba to make sure we are as visible as possible. We are not going out to recruit business or recruit work, because we have more than we can handle right now, but generally, should the Children's Advocate continue to exist in its current format in the legislative framework or does that need to be changed. There are

better ways of providing a voice for children in this province, and you will get a number of comments.

Mr. Kowalski: One of the experiences I have had is dealing with adults who are in conflict with the law when they talk about their childhood, going through Child and Family Services system, and that was that a number of them were moved from placement to placement. This is a common factor. Your referrals, is there anything that would cause you after a child has been put in a number of placements to automatically look as an advocate for that child? Is there anything in place right now, or is it only dependent upon the child or a child-care worker approaching you, or is there anything where you can be proactive in a child's case?

Mr. Govereau: Good, good question. First of all, there is nothing in place right now, first of all because Manitoba, our information system, child welfare information system is still limited in that capacity. Let me relate to you the policy from Alberta where their child welfare authorities and their children's advocate, through their computer information system on a monthly basis, get a listing of children where the child may have had three or more placements in the past 12 preceding months, where the child has been in care for 12 months with no case plans or no permanent plans, where a child has had three or more workers in one fiscal year. Those are automatic notifications that the information system in Alberta is able to spit out.

Unfortunately, we do not have that capacity here in Manitoba. In the initial stages of, I guess, providing our services and developing our office, I did make a proposal to the system about some sort of mandatory notification process to the Children's Advocate that would allow us to become involved in situations more readily on behalf of children, particularly in situations where a child was provided with information with respect to a decision that was going to be made about his or her life and disagreed, and that therefore the Children's Advocate could help the child express his or her preferences and point of view, and likewise where there may have been competing interests or points of view with respect to a case plan. Also in terms of where children in care are maltreated and abused, there should be mandatory notification to the Children's

Advocate so that the Children's Advocate is aware and can speak on behalf of these children.

No, we do not have a process, per se, and we are dependent upon complaints coming to our attention.

* (1100)

Mr. Kowalski: Then would one of your recommendations—until we have the information systems available so that the system would be aware when those circumstances, three or more placements in a year, or three or more workers—would you like the Child Advocate's office to have the power and the resources to sort of do an audit, be allowed to go into agencies and audit cases, and for any cases where three or more workers have been involved in a year, or three or more placements over a child's preschool years, something like that? Would that be useful to the Child Advocate's office?

Mr. Govereau: I guess first one would have to decide whether that should be the role of the Children's Advocate or the continued role of the director of Child Welfare. As you may not be aware, there is a clause in the existing Child and Family Services legislation, I believe it is Section 48 or 50, I cannot remember, where the director of Child Welfare must review all permanent plans of children who are permanent wards on an annual basis. I think what would be helpful for the Children's Advocate is to have the capacity to do some tracking, whether that means doing random samples of agencies, which is a possibility, but it would have to balance that with whether that is just more from a monitoring or research perspective or is it to enforce standards.

Mr. Kowalski: I know one of the things that I will be asking members of the public present is your views about the best interests of the child hampering you, and I could think of my mother right now that she would probably say to you that a child that always wanted candy—and if I followed your line, then your role would be to make sure that the child got nothing but candy. If a child that was being abused by a father but felt comfortable about it and that is what the child wanted, even if it was in the best interests of the child, the Child Advocate's role would be to advocate what the child wanted and I cannot see wide public acceptance to that.

I find it hard to understand how we would love a Child Advocate just to have the role of doing whatever the child wanted. Do you have any comments about that?

Mr. Govereau: Oh, absolutely. That role of being a true independent advocate for children presently exists in Alberta. Advocating for or on behalf of a child is a process in and of itself. Children, as we all know, are powerless when it comes to dealing with adults in their lives, that as adults we have tremendous control over their lives and what they can and cannot do.

Giving voice to a child's request should do no harm as long as that decision maker has heard that. Just because the Children's Advocate, using your example, is asking for candy, we will say the child wishes to have candy, it is still your decision to say no. At least, we have helped that child voice. It is more voicing their opinion as opposed to saying they should have candy or they should have a relationship with an abusive parent. We are saying, this is what the child is saying. Hear what the child is saying but make a decision based upon what you have heard.

Mr. Kowalski: So that clarifies also the division between the advocate role and the investigative role because, then, all the advocate's role is to have a clear understanding of what the child wants and make sure that voice is heard, whereas the investigative role is to look at, is that in the best interests of the child and are the mandated services for that child being delivered? Do I have a correct understanding?

Mr. Govereau: Yes, you do.

Mr. Kowalski: I have more questions, but I know my colleague here would have some more, and I will try to catch some more at the end here.

Ms. Diane McGifford (Osborne): Mr. Chair, I wanted to thank Mr. Govereau and your staff for the report. I am sure staff were very important in helping you formulate your report. Also, I do not know whether this information is courtesy of you people, but I really appreciate having it in such a concrete form. So thank you very much for that. I also wanted to say that in another life I have contacted the Child Advocate's office and Ms. Hammerback was extremely pleased

with the work that you did, and so I compliment the office.

I have an interest in ombudsmen, advocates and freedom of information officers and some of the differences between those roles as they are legislated in various jurisdictions. So I wanted to ask a few questions along this line. First of all, I am going to tug this microphone closer to me.

First of all, am I correct in understanding, Mr. Govereau, that what you are looking for or what you are recommending in the list of recommendations you presented today, what you are recommending is two separate acts, an advocacy act and an act creating a child ombudsman, because I believe you thought that legislation should not be enmeshed in other statutes, which I took to mean that your office should not depend on being created through an amendment to The Child and Family Services Act.

Mr. Govereau: That is correct, and I am recommending that there be two statutes created independent of existing legislation, one for child advocacy and one for child ombudsman.

Ms. McGifford: And the reason for that is to provide those two persons, whoever they be, the Advocate and the ombudsman, with independence from other departments.

Mr. Govereau: Yes, and also to ensure that right now the way the legislation respecting the Children's Advocate is included as an amendment to The Child and Family Services Act and when you go further through The Child and Family Services Act, it gives the director of the Child and Family Support branch control over my records even though that was never intended. So by pulling it out and keeping it as stand-alone legislation, you are not going to confuse authorities. You are not going to confuse administrative procedures, that sort of thing, access to information, whether it be access to records under The Child and Family Services Act vis-a-vis Freedom of Information.

Ms. McGifford: I wanted to ask you some questions about your records in a few minutes, but before then I wanted to continue with these questions.

Then I would understand that there would be an advocate and an ombudsman—a word that sticks in my throat by the way, the “man” part of it—and that these two positions would be appointed by a special committee of the Legislature, an all-party committee, that the two positions would be officers of the Legislature, so that the two positions would also make reports to the Legislature and therefore would not be in a position of—and excuse the term—kowtowing to any minister.

Mr. Govereau: That is correct. The other possibility, of course, I am making the recommendation that there be two different positions created, two different pieces of legislation proposed. The other options are there to look at enhancing the existing capacity of the provincial Ombudsman who continues to have a children's desk in his office, who does investigations particularly in terms of children of corrections and some child welfare issues, but mostly the child welfare complaints have come to our attention. So that is one option, or there is demanding and enforcing the provision in The Child and Family Services Act that requires the director of Child Welfare to ensure compliance to standards and ensure accountability.

* (1110)

If those occur, then you do not need an ombudsman. But those are not occurring, so as a consequence I am recommending an independent ombudsman for children for this province because, unfortunately, my experience and the experience of my office is we have not been able to rely on the provisions of the legislation governing the director of Child Welfare to make sure that happens in a timely, consistent, effective manner for children.

Ms. McGifford: So the—if I can use the term “Cadillac”—legislation would be the two separate statutes with the two separate officers who are officers of the Legislature, as I outlined before. Could I ask you if this is the case in any other jurisdiction?

Mr. Govereau: Not directly. We have, if we look at B.C., B.C. has a child, family and youth advocate position. They have a deputy ombudsman for children's issues in addition to the provincial ombudsman. They

also have a commissioner for children in that province whose authority is still quasi-ombudsman where they can look at child deaths, decision-making capacity, that sort of thing.

Up until recently Alberta also had a different mechanism to make sure that there was some sort of review or accountability process in place, and they had a child welfare appeal panel. In my first annual report, I had recommended that Manitoba consider such. In Saskatchewan the Children's Advocate authority is enmeshed with the provincial ombudsman's legislation. In Ontario it is a couple of sections in the Child and Family Services legislation of that province.

In Quebec, the authority is enmeshed with the Human Rights Code and legislation. So it varies throughout the whole province. In Canada does not have a child ombudsman in any province. However, child ombudsman positions exist in Europe and have existed in Europe for a number of years.

Ms. McGifford: Just listening to you, Mr. Govereau, it sounds to me, and perhaps I am drawing the wrong conclusions, so you could correct me, but that Ontario and Manitoba have the most enmeshed legislation as far as the relationship with Family Services and consequently have the most dependent legislation and probably then would leave a person in your position with a great deal less room for maneuvering than some other of your colleagues in other jurisdictions might have. Is that accurate?

Mr. Govereau: Yes, that is pretty accurate. I would also add Alberta to that to some degree as well.

Ms. McGifford: Now, when my colleague from Burrows was talking earlier, I believe he said, and you agreed, that in creating a Child Advocate and an ombudsman, a child's ombudsman or children's ombudsman—I am not quite sure of the term used—that one of the reasons for creating the ombudsman, child's ombudsman, would be to order redress and provide a method of enforcing compliance.

Mr. Govereau: That is correct.

Ms. McGifford: One of the things that I happen to know about our Ombudsman is that the Ombudsman,

Manitoba's Ombudsman, cannot enforce compliance. Indeed the Ombudsman in Manitoba can only make recommendations, and, if those recommendations are not followed, then the individuals affected have recourse to a costly court system only so that the Ombudsman's powers in Manitoba are also severely limited.

Mr. Govereau: Which is precisely why I am saying that a child ombudsman or ombudsperson for children should precisely have those powers so that—children cannot afford lawyers for one thing—they do not have to go through a formal court process, that the ombudsman can ensure or direct a department to make sure that certain services are provided to children. I think we need to, for children, because they are powerless. We need to afford them some opportunity where they are not going to be continually having to go through the loops to get some resolution to their issue.

Ms. McGifford: Then are you asking for a children's ombudsman who can issue binding orders?

Mr. Govereau: That would make sense. How it would work out logistically or from a legal perspective, I do not know. I am not a lawyer, so I do not have all the legal thinking how it might be phrased or whether there is a need to adjust existing statutes in the province as well.

Ms. McGifford: My only comment is that the current Ombudsman cannot issue binding orders, so I, of course, as a person who is interested in privacy and the importance of having a strong commissioner to oversee things, would totally agree with you that this person should be in a position to issue binding orders. I am not sure that the government would, but I do not suppose we are discussing that today.

I also wanted to ask you about records. You talked about protecting records, and I did not get everything you said because I could not write as fast as you can talk, and I wondered if you could provide me some details. First of all, I am interested in the kind of records you collect and the current methods of protecting those records and how they are kept confidential.

Mr. Govereau: We open a file based upon a child's name, which is uniform within a child welfare system, case count by children. A couple of things—we have what are called miscellaneous files. Of course, all of our files are kept behind double locked, triple-locked doors actually, as a way of security, but we do create our own files in our office that identifies information on who our caller is, the name of the child, the agency involved, issues at hand. From there we also add our ongoing daily notes in terms of our involvement on behalf of that particular situation, correspondence that may have come out or have gone back and forth in terms of our involvement with the agency. So there is basically some sort of case administrative files that are there.

We have had a number of requests from legal counsel, who are either representing the agency or parents who are in disagreement with an agency around an order of apprehension, to access and produce our records before the court. We have taken the position we are still waiting for a test case to come up so that we can proceed further in court and get an actual decision—that the records of the Children's Advocate should not be subject to subpoena or court order, nor should the staff of the Children's Advocate.

There have been attempts by counsel, particularly representing parents, to involve the Children's Advocate in the court process, the legal process. We have tried to stay out of that to the extent possible. We are saying that we have the right to investigate. The information that we have on our file, and if we have created a report, that report is already back to the agency anyway, so why do you need our record? Likewise, we have also had recently—and I have no problem under Freedom of Information giving access to a child of a record that we have created on his or her behalf.

Ms. McGifford: I am not sure what you mean by “the record is already back to the agency.”

Mr. Govereau: If we have gone in and we have done a review or we have made a report with recommendations, a copy of that report is sent back to the agency. So it becomes their property, not ours.

Ms. McGifford: I am not sure what you mean by “the agency.”

Mr. Govereau: For example, if we had a situation where, with Winnipeg Child and Family Services, we have gone into and done an investigation, in respect to their handling of a particular case, we are bound by legislation to make a report of our involvement, of our findings or our investigation and any recommendations that may have come from that. We are obligated under existing statute to provide a report to the agency and to the director of Child Welfare and Family Support of our findings. So a copy of that report would also be a part of the agency record that they have on those children.

Ms. McGifford: Would there be information in your files that would not be in that report?

Mr. Govereau: Quite potentially, if there are comments that have been made to people, to us directly. We have had a number of people who do not want their identity known. The information we have on our file generally is—correct me, and I will ask myself to correct myself too—in some respects duplicative of what already exists in the system. It is just another place where information is collected, because what we do is we will phone a social worker and ask them about a particular situation; so they will tell us. That information would be already on their file, so we are just recording it for our own purpose. So a lot of it is duplicate.

* (1120)

Ms. McGifford: Then none of your records to date have been subpoenaed? You said you were waiting for a test case.

Mr. Govereau: We have had one subpoena, but the matter did not proceed in court. So we are still waiting to test our theory in court.

Ms. McGifford: I take it then you denied the record.

Mr. Govereau: Yes.

Ms. McGifford: I am sure you are aware that there is a lot of controversy over records, and particularly sexual assault records have been discussed. There is a bill before the federal legislature, Bill C-46, on that particular matter.

I am wondering, indeed this is probably something that would be a federal issue, I would think.

Mr. Govereau: Not necessarily, because the records of the Ombudsman, if I am led to believe correctly, cannot be subject to subpoena or court order, nor can any of the Ombudsman's staff. So I am basically saying that the same thing should apply to the child ombudsman and the Children's Advocate.

Ms. McGifford: Even though at this point—well, I think I follow your argument. Can I ask if you have any electronic records?

Mr. Govereau: We have, unfortunately, a pathetic database. Most of our—I would say 90 percent of our information is hard copy paper information. We have been trying to implement an electronic database information in our office, which is very slow and costly, so we do not have—anything that we have is usually paper. While we have word processing capacities and computers in all of our worksites, all our information is hard copy.

Ms. McGifford: I would think that perhaps there are some advantages to having hard copy and not having electronic records. I might be called a Luddite for thinking that, but it may be the case. I wanted to ask you, how many staff you have?

Mr. Govereau: I have two professional staff who are here today, plus a secretary who is managing the office while we are here. So from the four of us, we serve all of Manitoba right from Emerson right up to Churchill, Tadoule Lake.

Ms. McGifford: Are you all officed, housed, in Winnipeg?

Mr. Govereau: Unfortunately, yes, we are all housed in Winnipeg, as being our central location, but have complaint, will travel.

Ms. McGifford: I wonder if that presents you with difficulties.

Mr. Govereau: Absolutely, it does. We do not have, even though we promote, as part of our philosophy and principles of advocacy the concept of accessibility to

visibility, an advocacy program for children. Given my current human resources, I cannot. I do not have the capacity to make sure that there is a consistent accessibility, visibility in the rural areas of Manitoba, or the northern parts of Manitoba, just because I only have two staff to serve the whole province.

Ms. McGifford: Have you asked the minister for more staff?

Mr. Govereau: Absolutely. Every budget cycle, I have asked for additional staff and have not received.

Ms. McGifford: I think that I am just about finished. I wanted to make a suggestion though, if I might, Mr. Chair.

Earlier the member for Turtle Mountain (Mr. Tweed) was asking Mr. Govereau about his recommendations and how he would feel if he made a recommendation that was accepted and did not work out. It would seem to me that if a recommendation were made, and the minister, in her wisdom, saw fit to accept it and it did not work out, well, then, it would be changed the next year. If the Legislature accepted a recommendation and passed an act or amended an act and it did not work out, well, then, we would amend it again. So it seems to me, those kinds of problems are quite easily solved.

I want to just conclude by thanking Mr. Govereau for his recommendations. They all make sense to me.

Mr. Govereau: I would like to add sort of a closing comment to that whole issue and to the member's question about recommendations. My office can be and has been reviewed by the Ombudsman. We advise people and continue to advise people. If they are not happy with the results of our involvement on a particular matter, they have a right to ask the provincial Ombudsman to come in and examine our records, our actions. In fact, the Ombudsman has done that on a couple of occasions, and we see no problem with that. However, if we all become, as I am recommending, officers of the Leg, I do not think that would be possible. So there is an accountability also in terms of the role of the Children's Advocate.

Mr. Kowalski: If this committee was to carry forward your recommendation to have a child ombudsman,

ombudsperson or whatever, one of the questions that I am sure that would come up is why do we have to have a separate ombudsman for children as opposed to one who handles everyone. Like I guess the argument can be made, do we need a separate ombudsman for seniors, a separate ombudsman for different sectors? How would you respond to that question?

Mr. Govereau: I would respond by saying that children do not have a voice of their own, at this point in time. Seniors have a voice. They have an association process. They have capacity as elder members of our society to advance their position, advance their causes through whatever mechanism, either through the Manitoba Society of Seniors or whatever. Children do not have that capacity and I believe should be afforded that opportunity.

Mr. Kowalski: In regard to the questions from a colleague here, as a result of having a staff of four people, what is the length of time from when a child states to a worker that they would like to speak to the Child Advocate or like to present a case or a worker to the time that you actually make contact with them?

Mr. Govereau: It varies. Sometimes it can happen right away. Immediately a worker will—it will happen particularly in places like Seven Oaks or Knowles Centre, where the child care worker will let the child pick up the phone and call us. In other cases, the social worker will advise the parent or the child that they have the right to contact the Children's Advocate and provide our telephone number, and the child would do that at his or her leisure, likewise parents at their own leisure.

In terms of our response time, depending on the severity of the issue or the emergency of the situation at hand, as soon as we do an intake on a complaint and it seems appropriate for us to be involved in it, if we need more clarification we will pick up the phone and call an agency, which some agencies do not like, but we would also follow up by a fax copy to the agency indicating that we have received a complaint. This is the complaint. Can you please get a hold of us. So all of our information, we are faxing it out within probably the same day or sometimes it is within the same hour.

Mr. Kowalski: You made a comment about social workers not having a professional body and you

expressed some concern about that. Has that ever been recommended by you as a Child Advocate that social workers should have a professional body that would maintain standards and professionalism? Have you ever recommended that?

Mr. Govereau: First let me clarify and sort of, I guess, eat some of my words. There is a professional body for social workers in this province. That is the Manitoba Association of Social Workers/Manitoba Institute of Registered Social Workers. Unfortunately, they do not have any legislative authority to force any code of ethics or standards of practice for social workers. There has been for years an attempt by both those organizations to get some legislation passed. Likewise, I have made recommendations in my annual report that Child and Family Services workers in the system, 90 percent who are social workers or social work training, need some sort of certification process to make sure that they are competent, are skilled enough to do the jobs that they were hired for. That certification process exists in other provinces but does not exist here.

Mr. Kowalski: Why have you not recommended that?

Mr. Govereau: Oh, I have, I have. Absolutely. In my first annual report I make the recommendation.

Mr. Kowalski: Another question in regard to the period of time in which the Child Advocate and possibly the child ombudsman is hired, we are looking at a parallel with the Ombudsman, the same as the Ombudsman currently reports to LAMC, the Provincial Auditor also reports to LAMC, and other ones. The difference is, the Ombudsman is hired by an all-party committee. The Provincial Auditor, for example, is hired by the government by I believe it is an Order-in-Council. Do you think that is an important element, that it is an all-party committee that chooses and hires the Child Advocate?

* (1130)

Mr. Govereau: Yes, I would fully support an all-party process to hire either an advocate or an ombudsman for children or both.

Mr. Kowalski: In regard to some of your comments about First Nations child care agencies, myself and the

minister and the member for Burrows (Mr. Martindale) here were up yesterday at Island Lake in regard to the signing of the creation of the new child care agency. I was very impressed with the speech made by Sidney Garrioch, who is with Awasis Agency. He talked very much about the distancing from the political representatives on their board and their executive director, and it sounds like there is a good understanding of the need for that. As you stated in your earlier comments, one of the reasons for the creation of the Child Advocate was some of the concerns from the Desjarlais incident and a couple of other high profile incidents of political interference in native child care agencies. Are your concerns lessened now? Have there been improvements since when you first came into office?

Mr. Govereau: I think it varies. The issue of whether it is big "P" or small "p" political interference in the operation of First Nations agencies I think varies, and it is also dependent upon the situation at hand. There will always seem to be some First Nations community members who believe that their best recourse is to involve chief and council to help advance their concern or cause. Some chief and council will defer that back to the agency and some do not, so it is going to still occur. What degree, what intensity, I think, is part wait and see. In terms of our involvement, we have had allegations of political interference come to our attention, but we have had difficulty having people who have made those allegations actually define what they mean by political interference. How has it impacted on the process so that the decisions affecting children are not minimized or children are not left in risky situations?

I think we will continue to have those allegations whether they are real or not. It is just a part of life.

Mr. Kowalski: In your submission, you talk about inferior service by First Nations child care agencies. Can you be a little bit more specific? How is the service inferior?

Mr. Govereau: It is inferior in the sense that some of the First Nations agencies are now making the same mistakes that mainstream agencies have made previously in terms of ignoring children in care, not doing proper case planning, leaving or putting children into risky situations, not ensuring that the parents are

people who are able to care for these children, have the skill or capacity or resources to do so.

Some agencies are basically saying you put an aboriginal child in an aboriginal home and everything should be okay. I am sorry, it does not work that way. Sure, the culture is important and it is critical for aboriginal children to make sure that that culture component is recognized and supported. You can put as many aboriginal children you want in aboriginal homes, if their needs are not being met, they are still going to be disadvantaged children. They are going to still be children who possibly grow up to get involved in criminal activity or whatever. They are going to be children who still continue to act out. They are going to be children who still present problems in the educational system. So I am saying I fully support aboriginal children taking care of their own, but let us do a good job about it.

Let us not do only half of what we can do, which puts pressure back again both upon governments, federal and provincial, to make sure that First Nations agencies are resourced sufficiently so they can do that job. I think the recent example with Anishinaabe Child and Family Services, in and all of everything else that is happening to that agency, I think is a prime example where there have been concerns about less than ideal quality services provided by First Nations agencies to their own people. If that was not the case, we would not have aboriginal people from reserves calling us either.

Mr. Martindale: Since you were talking about resources, I wonder if we can talk about your budget. Going from memory, it is in the \$200,000-plus range, but maybe you can tell me what the exact appropriation is for this year.

Mr. Govereau: I think the exact appropriation is \$304,000. Of that—I am trying to go by memory, because I cannot remember exactly—I think about \$85,000 is for operating and the rest is salaries.

Mr. Martindale: Can you tell me approximately how much of an increase you have asked for in recent years?

Mr. Govereau: Each year I have asked for three full-time professional positions and one clerical position. I

have asked specifically for an aboriginal position or a position that I could designate to hire an aboriginal person into so that we could ensure that I have the linguistic capacity to serve children who do not speak English appropriately. Likewise, I have asked for a full-time intake worker and another advocacy officer as well as clerical support.

Mr. Martindale: How much do you think would be required if the government was to pass legislation for both the Children's Advocate and a children's ombudsman? What sort of budget do you think that would require?

Mr. Govereau: It depends on the level of commitment that one wants to propose. It could be anywhere from the Quebec model which is about \$3.6 million to the Alberta one which is \$1.1 million, to the current one of \$300,000 each year, so it varies. If the Advocate is to have capacity to promote and work with natural advocacy systems on behalf of children, I think there has to be an appropriate resource base to do that. That means having staff who have the capacity either to be located outside of Winnipeg or have the capacity to have staff to travel to those communities and be there on a more regular basis than. If I am looking strictly right now at the Children's Advocate budget in terms of what it might need, I am saying the requests that I have made in the past four budget years, if those were met, and we were strictly doing advocacy as opposed to investigation, I think it would certainly help.

Mr. Martindale: Have you had a lot of requests for service from northern Manitoba, and would you like to see an office in Thompson?

Mr. Govereau: Our requests from northern Manitoba have not been as high as Winnipeg which tends to have mostly kids in care and also because we tend to be here. But we have had a number of requests from the North, and, yes, I would love to have a field site in Thompson.

Mr. Martindale: What do you think is the likelihood of getting a budget appropriation of \$1.1 million to \$3.6 million—just to use figures from other provinces—given the policies of the current government that have cut foster parent rates and cut welfare rates including welfare for children?

Mr. Govereau: You are asking me to make an assumption based on the politics of the day?

* (1140)

Mr. Martindale: Well, maybe that is something that you cannot or should not comment on. What effect do you hope new legislation, particularly ordering redress to problems and compliance with recommendations, would have on some of the existing problems? For example, looking at one of your previous annual reports under just one section, synopsis of systemic consultations, what the system had to say about itself. There were 47 very serious concerns that were raised. I also see in a more recent annual report some stats on children in Manitoba, for example, that two-thirds of the children involved with agencies are aboriginal whereas only 20 percent of children in Manitoba are aboriginal. We have 5,336 children in care, the highest per capita rate in Canada and I believe twice as many as Saskatchewan; a budget of, according to your calculation, \$92 million spent in 1994-95 budget year spent on child welfare related services. In 1995-96, 2,211 children abused. In 1993, 26 children died while in care of Child and Family Services. We have terribly high rates of child poverty. Workers tell me that they are giving vouchers to families for food which, of course, which, of course, shows up under the Child and Family Services agency budget, not in the welfare budget.

Given all these serious problems, what hope do you have that new legislation would reduce the number of children coming into care, all the existing problems in the system that you have commented on and made recommendations on?

Mr. Govereau: I do not know whether new legislative framework will reduce the number of kids in care, but what a new legislative framework would do: it would make sure there is a clear process for children who are in care, or on the verge of coming into care, to have a voice in that process, and can be heard through that process. I do not think it should be dependent upon the existence of a Children's Advocate program to offset what is happening in the direct-service component in terms of why there are so many kids in care. That is something the child welfare system itself has to examine and, I think, needs to examine very quickly.

Likewise, there will always be children who need in-care services, and that they never, ever return home, for whatever reason.

So I do not believe, and do not think, that the existence of a children's advocate can be correlated to the number of kids in care or not in care. I think what has to be correlated is that the existence of a children's advocate is to make sure that those kids, whether they are in care or not, have a voice, or have a process to have their voice heard.

Mr. Martindale: Just to look at another part of the system, supposing the Children's Advocate's office or the ombudsman's office was notified after a child in care had moved to, say, the fifth foster home, and immediately an advocacy process was put in process, so that an end to the constant movement was put in place and some sort of permanent arrangement was made, hopefully that would put an end to, or at least slow down, the sometimes extremely high number of foster care placements. Could that not be one of the benefits of giving these offices more authority?

Mr. Govereau: Oh, absolutely, and I think the role would be more legitimate in terms of saying that, as a system, if you are going to bring kids into protective care, then you have to do a better job than the parents whom you have taken those kids from. You cannot allow those kids to have five and six places, and in some cases we have heard and have been advised of 47 placements in a three-year period. So, yes, a role of an advocate and a role of an ombudsman or whatever can ensure some permanency and some stability within the system so that a child does not go through five or six placements, that he or she gets into a foster home or a permanent adoptive home, or possibly reunified with their family, if that is the option, so they do not have to keep going through the revolving door even within the system itself.

Mr. Martindale: One of the very interesting documents that you enclosed in the binder today is from Great Britain. I was reading some of the recommendations there, and it seems to me that there are things that could be done by government that would not cost a lot of money. For example, I think one of the recommendations was that, for every policy and program of every government department, there would

have to be a statement as to how that program or policy impacted on children, if there was an impact on children. Would you like to see those kinds of things done by government, knowing, first of all, that it could have a positive benefit on children, and secondly, that there would be little or no cost to government? It would be a good way of reminding government departments that many, many government departments have an effect on children.

Mr. Govereau: Yes, and I think it makes sense. It is easily possible. I know it already happens right now in Saskatchewan where they have sort of like a first call for children, and as part of the budgetary process in that province, each department identifies how much money they have directed towards children's services and what their mission is or their values are towards ensuring that the children get served.

Mr. Martindale: One of your recommendations today was that more discretion be provided regarding the need to provide formal reports as well as the discretion to make individual reports public and to publicly comment on matters affecting children and youth. One of the more contentious areas now has to do with reports on child deaths and, you know, sometimes there are media reports, sometimes even because of leaks about the circumstances around a death and whether there should be an inquest or an inquiry, and sometimes there is even an inquest and people still advocate that there should be an inquiry. The minister has actually promised to be more forthcoming about recommendations provided they do not have any legal complications.

Do you believe that—I will rephrase that—was your recommendation specific to this concern that I am raising, that it could be applicable to child deaths and investigations and recommendations?

Mr. Govereau: It could be applicable to, and I think there is a direct relationship to the previous recommendations I have made to the minister about making the reports and recommendations of the Chief Medical Examiner public, because it is my view as a Children's Advocate that justice is not served if we continue to hide behind the shroud of secrecy where actions of an agency may have contributed to an untimely death of a child. I think it goes back to my

position of the need for public accountability of how the system works or does not work on behalf of children in this province.

Mr. Kowalski: I know of some of the discussions that are likely to take place after the presentations of the committee. I know one of the concerns that I have heard from some members is about the creation of a parallel bureaucracy, and the larger that bureaucracy becomes, it is taking money away from services to children in that the larger, if you are talking four or five offices for the Child Advocate's office, if we are talking about a child ombudsman and a Child Advocate and the resources and that, how would you respond to that, that this becomes a self-propagating bureaucracy?

Mr. Govereau: I think it is a very fair question. I do not see us as being a massive bureaucracy. I think the more massive you become, the more ineffective you become. We have a living example right now of that ineffectiveness that exists, and that is the 54-plus staff in the Child Welfare and Family Support branch. You know, in a budget I think of \$2 million-plus, I have two staff and we serve the same kids in the system. In fact, the volume of kids we see, which averages about 500 kids a year, is the same volume that some of the medium-sized agencies have where they have 12-20 staff as caseworkers. So I think in essence government is getting a bang for its buck from my office in terms of the number of kids we do serve.

Mr. Kowalski: Am I being naive or maybe utopian in thinking that if the Child Advocate did a fantastic job and corrected a lot of the problems in the child care agencies and that eventually you would do yourself out of a job because there would be less of a need for a Child Advocate? So maybe in a short term we might see growth in the needs of the Child Advocate's office, that sometime in the future if it was an effective job that we would see a decrease as the services became more efficient, more responsive?

Mr. Govereau: I think, ideally, yes. I know for myself personally, I do not see this as being my career for the rest of my life in terms of that I am here to maintain my position come hell or high water, because I think if the systems were working effectively for children we would not need the advocacy to the extent that has existed to date or may exist in the near future, that the

priorities may shift to supporting other advocacy structures either through families or communities or neighbourhoods. Whether it exists formally as a legislative framework or is delegated back to the community, there will still be some level of advocacy. Whether it is through the existence of an office of a Children's Advocate or some legislative framework that allows communities themselves or parents themselves to be their own advocates, it will always be a part of the system to varying degrees and intensities.

*(1150)

Mr. Edward Helwer (Gimli): I just want to thank Mr. Govereau for his presentation this morning.

One of the things we had talked about in the questioning from Mr. Kowalski earlier was the training of the child care workers or the social workers or child care people. I wonder, you talked about another certification process, why would this be necessary? Are our present educational agencies, such as whether it is Red River or the three universities, or whoever, wherever they get their training, the child care workers, why do we need another certification process?

Mr. Govereau: Basically because the academic preparation for a social worker, the system does not do its job right now. The curricula of the Faculty of Social Work is a generic curricula that it focuses more on getting top marks than anything else, and students get a wide range of theoretical preparation even though the majority end up being employed in the child welfare system. Having gone through that academic preparation myself, I can speak from personal experience that when I was a green social worker back in 1980, I did not get the academic preparation how to do a proper assessment. I did not get the time to spend with kids and with families to the degree that I should have.

In some ways, as new workers are coming the system and are being employed, we have to retrain them to make sure that they can do an assessment. They know how to communicate with children; they have a broad theoretical base in terms of some of the developmental needs of children—what is normal, what is not normal, that sort of stuff.

I have proposed to the faculty a number of times that we need to look—if we are going to look at a professional education, why do we not look at how law does it, why do we not look at how education provides a professional education. It seems both in academic preparation and in practice, the social worker seems to be sort of the poor cousin.

Mr. Helwer: Just a little further on that, you talked about communications and the curricula and one thing and another. Do you think this is the one area where some improvements could be made to the curriculum and to improve the work of some of the child care workers?

Mr. Govereau: Well, absolutely. I believe there can be a number of instrumental changes in terms of the curricula provided by the faculty. I think, in addition to some of the theoretical stuff that they provide, they actually have to put on some more practical experience in assessing that more in-depth, particularly in capacities of workers to assess situations.

I am also going to ask one of my staff members, Roma Minenko, if she wants to add more of it too, because she is not only a board member of the Manitoba Institute for Registered Social Workers, but she also has been a field instructor for social work students who have been placed in my office as well.

Roma, do you have anything more to add?
[interjection]

Mr. Chairperson: Excuse me, you need to come to a mike here, please. I just need your name, please.

Ms. Roma Minenko (Deputy Children's Advocate):
Roma Minenko.

Mr. Chairperson: Ms. Roma Minenko, please.

Ms. Minenko: Thank you very much again, Mr. Govereau, for asking me to come forward because as you were speaking, I was doodling down notes of things that I would like to just bring forward.

Specifically with regard to the qualifications of social workers and the training of social workers, as Mr.

Govereau has mentioned, our office has had social workers doing field placements within our office for the last three years, and this year we had two students with us. Throughout the period of time, the one thing that we have noticed is that there is a great emphasis on the theoretical with very little emphasis on the practical. So when we get students into field placement, our expectations are that they will be able to take the knowledge that they have received in the classroom and put it into practice with the children, the youth, the parents, the systems that they are dealing with. There is very little emphasis on making the connection of how you take this piece of legislation, and what it looks like when you are actually doing it day to day. When you are answering the phone call, when you are writing a letter, what does it actually mean?

So, as such, I mean we feel that our contribution has been to take the few people that we have had, and to work with them in a very concentrated manner to try to improve their skills in terms of working with children, working with families, working with systems, understanding how to put the theoretical into practice.

The other piece as well is that I do sit on the admissions committee at the MIRSW, and at this point in time, and for a few years now, there has been discussion about the admission requirements to become a member of the Manitoba Institute of Registered Social Workers. At this point in time, the requirement is that any individual in the province of Manitoba who has a Bachelor of Social Work degree or the educational equivalent, and has practised in the province of Manitoba for a minimum of six months, can apply to the institute for membership. This is strictly an optional process. I know of very few employers that actually require their employees to go through this process and require membership in a professional organization in order to be an employee of their service or organization. So that is the one piece.

The second piece, knowing what we know about emerging First Nations agencies, is that a fair number, and I cannot quote you the exact percentage, but a fair number of the staff within these agencies do not, at this point in time, possess the B.S.W minimum, or greater or equivalent, that would allow them to become members of the MIRSW. So in a very great way there

is that wall, that barrier that blocks them from becoming members of this professional organization, even if they chose to. That has been a fairly big issue on behalf of the MIRSW for a fair period of time.

What I am going to give you now is one man's opinion. This is not the opinion of the MIRSW; this is the opinion of myself as a member. My opinion is that anybody in this province who practises as a social worker, or who has social worker or social work duties defined as part of their job fulfilment on a daily basis, should be allowed membership within the organization. Only when we start opening up the doors to the membership of the organization can we actually facilitate the improvement of professional standard, professional membership, professional management, and adherence to codes of ethics which members of the MIRSW and the MASW are provided with.

Mr. Chairperson: Thank you very much for those comments. Mr. Martindale, one quick question.

Mr. Martindale: Well, it is not a question. I just want to thank Mr. Govereau and Ms. Minenko for the presentation and the answering of questions. It has been very interesting and informative and helpful.

Mr. Chairperson: Thank you very much. I, too, would like to thank all participants here. Is there any other business that we need to look at before we adjourn? No. The time is now 12 noon. Shall the committee rise?

An Honourable Member: Committee rise.

Mr. Chairperson: Committee rise.

COMMITTEE ROSE AT: 11:59 a.m.