

Child Protection Legislation in Ontario: Past, Present and Future?

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Abstract

Ontario has undergone significant shifts in child welfare policy emphasizing different approaches toward promoting the safety and welfare for children. This article examines shifts in child welfare policy over the past 200 hundred years and the manner in which these shifts reflect changing views of children, of family as a social unit and of society. The results are discussed in the context of the impact on demands for service and the potential implications of recent changes to policies concerning the welfare of children in British Columbia. The authors also discuss the need for further research into the relationship among child protection legislation and policy, children's actual well-being and other systemic social problems.

KEYWORDS: Child, welfare, legislation, policy

Introduction

Child welfare practice in Ontario reflects an increased emphasis on promoting the best interests, protection and well-being of children. This shift to providing protection for increasing numbers of children reflects the recognition that children are important persons who have the right to be protected. The shift is reflected in complex legislation and policies that attempt to reduce the risk of abuse and maltreatment. Rivers, Trocme, Goodman & Marwah (2002) noted that since the mid 1990s, there has been a dramatic increase in both referrals to Ontario's child welfare agencies and admissions into care. The number of children who were suspected of being abused or neglected and hence investigated by child welfare agencies increased by 44% between 1993 and 1998 across fifty-two children's aid societies. The number of substantiated investigations of neglect doubled between 1993 and 1998, rising from 4,400 to 8,900. The number of children admitted to the care of CAS increased from 10,419 in 1996 to 15,792 by 2001 (Rivers et al., 2002). By 2003, this number has increased to more than 18,000 children.

This article provides an historical context for understanding current child welfare practice and law in Ontario, as well as how shifts in policy are reflected in current child welfare legislation. The implications of this legislation are examined using data from the Children's Aid Society (CAS) of London and Middlesex, a large child protection agency situated in an urban setting in southwestern Ontario.

Historical Developments and Key Legislation

Child welfare policy in Ontario has undergone several key developments, each of which reflects changes in social philosophy. Lero & Kyle (1991) suggest that these major developments are characterized by: 1) the early voluntary organization of churches, nurseries, social agencies and women's groups to provide care for children (1870s to 1945); 2) the beginning of modern child welfare and government services that provide support for children, which was followed by an increase in responsibility and accountability for Children's Aid Societies (1946 to 1964); and 3) the recognition of the care and safety of children as an essential and comprehensive service, with legislation detailing how this support is to be delivered (1985 to present) (Lero & Kyle, 1991). These shifts in emphasis are discernible in changing child protection legislation in Ontario.

1.1 The Early Stages: The Transition of Children from “Commodities” to “Unique Persons”

Prior to the mid-19th century, virtually no legislation or child welfare services were in place to provide care for orphaned or deserted children. The *Orphan’s Act* (1799) and the *Ontario Municipal Act* (1849) came closest to providing support for abandoned children by creating opportunities for apprenticeship. Both acts reflected societal norms of a work ethic by giving legal recognition only to those children who could be bound into apprenticeship. This model of child welfare continued until the *Apprentices and Minors Act* (1851) created bodies of local government that provided the opportunity for local authorities to care for non-apprenticed children. Assistance for children, however, remained dependent on local charitable endowments.

The model of apprenticeship for dependent children continued to prevail to the end of the 19th century when many middle-class Canadians began to express public concern for the care of children. As the middle class experienced increasing prosperity, attention turned to the importance of creating nurturing environments for children. Harsh child-rearing practices increasingly received public disapproval. True alternatives to apprenticeship were introduced for dependent children, taking the form of adoptions and institutional care. Orphanages, which previously had relied on apprenticing many of their own children, moved to long-term care programs for young and “unwanted” children (Lero & Kyle, 1991).

The *Charity Aid Act* (1874) regulated charitable groups and organizations supervised by the government. It included legal justification for the prevention of severe abuse of children in apprenticeship positions. The *Industrial Schools Act* (1874) conferred power on local school trustees to establish residential and educational institutions for problem or unwanted children. Conditions were stipulated under which children could be admitted to industrial schools, including children who were found to be uncontrollable, or, who by reason of the neglect, drunkenness, or other vices of parents suffered to growing up without salutary parental control and education, or in circumstances exposing [them] to lead an idle and dissolute life.

The *Children’s Protection Act* (1888) was the first legislation in Ontario to provide the courts with the ability to commit dependent children to the institutional schools, by making them wards of the Province until the age of eighteen. Local

municipalities bore the costs of care. This act also reflected recognition of the needs of juvenile offenders as being different from adult offenders, by separating the criminal prosecution of children from that of adults. This came as a relief to the legendary child welfare reformer, J.J. Kelso, (cited in Jones & Rutman, 1981) who objected to such instances of injustice as the following:

little fellows eight or nine years old standing in the dock with old reprobates, and when the Clerk of the Court reads out the charge and asks the child to plead guilty or not guilty the whole proceedings are quite unintelligible to him (Jones & Rutman, 1981).

The suggestion that children were different from adults and had special needs requiring protection was reflected in the *Children's Protection Act* (1893). The act established the CAS in Ontario and had, as a quasi-public institution, a mandate to apprehend severely abused or neglected children, manage their residency in children's shelters and supervise their status as "legal guardians". For the first time, legislation provided for the punishment of parents found guilty of severe neglect. The courts could fine parents up to \$100 and imprison them for up to three months.

As the new "Children's Charter" reforms and the views of J.J. Kelso and the "child savers" gained increasing community acceptance, the number of children's aid societies grew both provincially and nationally. The child saving movement embodied those at the time who championed the cause of children's rights and protection. By the end of 1907, over 60 CASs had been founded in Ontario alone. Many of these had joined together in 1912 to form The Association of Children's Aid Societies of Ontario (OACAS), a body dedicated to promoting the welfare of children, and coordinating the work of separate children's agencies (Jones & Rutman, 1981). By 1912, although many citizens considered child welfare to be an important issue, some legislators were unwilling to enshrine even the very basic features of child protection in legislation. The child savers however prevailed in establishing legislation that outlined the safety of children from harm at the hands of adults. Support for child welfare policy however was still a careful balancing act between recognition of the family as the preferred and strongest social unit and the right of children to be protected from intolerable circumstances.

2.1 The Modern Era of Child Welfare and Recognition of the Legitimacy of Child Protection

By the 1920s and 1930s, CASs across Ontario had undergone significant changes in structure and fiscal management as the province increased funding for foster care and the institutionalization of dependent children. The *Child Welfare Act* (1954) and ensuing regulations and amendments guaranteed governmental support, as the Ontario government assumed responsibility for the accountability of the Societies. Provincial fiscal responsibility for wards increased from 25% to 40%, and new funds were invested in an effort to insure the safety of children.

The *Child Welfare Act* (1965) promoted the prevention of child abuse, which gained recognition as an important function of CASs, however, few prevention programs were offered. The *Act* designated preventive family services as an authorized activity and the funding structure reflected these increased activities as the province accepted a greater burden of fiscal responsibility for increasing costs. By 1970, 70% of costs were paid for by the province. The remaining 30% was paid for by the municipalities and counties.

In 1984, the *Child and Family Services Act (CFSA)* was enacted in Ontario. The goal of the *CFSA* was to provide clear principles and direction for child welfare by consolidating all previous legislation affecting children under one act. The purpose of the legislation also shifted, in order to reflect the need to protect vulnerable children, while acknowledging the importance of the family unit. Concepts such as ‘the least detrimental alternative’ reinforced policies that continued an emphasis on keeping children at home with their families. Objective grounds for removing children from harmful environments were restructured to clarify criteria for those who had to make decisions about the welfare of children.

The introduction of the *CFSA* marked the end of a process of considerable consultation and debate that was influenced by a number of reports from the 1960s and 1970s calling for major changes in child welfare. *The Garber Report on Child Abuse* (Garber, 1970) and *The Judicial Inquiry Report* (1976) were influential documents emphasizing the need to define the conditions of abuse and the requisite evidence for proving it, as well as community responsibility for reporting concerns about the abuse of children to a Children’s Aid Society (Allen, 1982). The *CFSA* (1984) was viewed as a

milestone in legislation that balanced the rights of children with the continued importance of involving the family. It reflected the tenuous balance between these two tensions, while ensuring that the community was responsible for the recognition and reporting of child abuse.

2.2.1 The impact of coroner's inquests and child mortality task force

In April 1996 the Ontario Child Mortality Task Force was established by the Ontario Association of Children's Aid Societies and the Office of the Chief Coroner for Ontario. The Terms of Reference of the Task Force were to review, analyze and make recommendations about issues related to the collection and flow of uniform and accurate data on child deaths, the coordination of efforts among children's aid societies, community agencies, organizations, services and the Coroner's office, the prevention of similar deaths, the training of service providers and investigators, the coordination of services and investigations involving CASs and the Coroner's office, the adequacy of existing mechanisms for reviewing child deaths, the adequacy of accountability mechanisms, and the field's ability to assess risk (Ontario Association of Children Aid's Societies, 1997). As part of its activities, the Task Force reviewed the deaths of 100 children known to CASs in Ontario that occurred from January 1, 1994 to December 31, 1995. The Final Report of the Ontario Child Mortality Task Force included 16 recommendations to improve the child welfare system in Ontario.

In 1996, the Office of the Chief Coroner announced eight individual inquests into the deaths of children who had been involved with a Children's Aid Society during 1994 and 1995. The inquests delivered over 400 separate recommendations calling for changes in how the child welfare system could be improved to protect vulnerable children. The recommendations addressed a range of concerns about child protection services, including: the level and nature of CAS funding; standards for the assessment of risk; workload standards; standards for the management of child protection cases; amendments to the CFSA; and requirements for the sharing of information between professionals and full disclosure of information among professionals and others who need to know to protect children (Ontario Association of Children's Aid Society, 1997).

2.2.2 Mounting pressure for change

The public and political attention to the work and recommendations of the Ontario Child Mortality Task Force recommendations and the recommendations of the inquests resulted in the Government of Ontario announcing \$15 million in the Provincial Budget as an initial response to support the recommendations from the Ontario Child Mortality Task Force to support vulnerable children. Further, in 1997, the Ontario Ministry of Community and Social Services announced three reviews that would review the operation and effectiveness of the Children's Aid Societies and the *Child and Family Services Act*. An independent review was completed of 3,000 randomly selected child protection files from all the province's children's aid societies. The focus was on compliance by Children's Aid Societies with their duty to investigate and manage child abuse cases. An independent review of the Ministry was also conducted, to determine if its responsibilities were being fulfilled with respect to monitoring the systems that are supposed to ensure the safety of children (Ministry of Community and Social Services, 1998a). Finally, a panel of experts reviewed the *CFSA*, reflecting the public's concern that the act may not have adequate legal provisions to protect children from abuse and neglect (Ministry of Community and Social Services, 1998b).

The results of the three reviews were released in late 1998. After reviewing 3038 child protection files from across the Province, The Child Protection Review concluded, in general, that conformity with Ministry standards for case management and record keeping was a concern, even though most Children's Aid Societies (87%) had high compliance with Ministry standards for the investigation and handling of child abuse cases. The management of cases following investigation was of particular concern for CAS officials, as the agencies continued to find themselves faced with limited resources juxtaposed with the increasing demand for service.

As the results of the Child Protection Review were being considered, two additional reports were released. The Child Welfare Accountability Review called for revisions by the Ontario Ministry of Community and Social Services in the areas of setting goals and expectations, contracting, monitoring, and follow-up in their relationships with the CASs. Specific recommendations were made about the funding of CASs, workload standards, a common risk assessment system, and defining neglect as a

reason for child protection. In 1998, the expert panel examining the *CFSA* released its report *Protecting Vulnerable Children* (Ministry of Community and Social Services, 1998c). It called for a series of major changes, such as the inclusion of a definition of neglect and risk of neglect, permanency planning based on age categories, consideration of emotional abuse as a determination of risk and need for protection and a change in priority of the principles in the *CFSA* that now emphasized the safety of children over and above the support of the integrity of the family.

By the end of 1998, the motivation for reform in child welfare in Ontario had peaked. The many reports that had called for changes in the legislation, operation, and management of child protection services had an impact. With completion of the inquests, the details of the deaths of children known to the Children's Aid Societies also became public and contributed to the mounting pressure on the Provincial government to "fix" the system and put measures in place that would more effectively protect vulnerable children (Ministry of Children and Family Development, 2002). Later high-profile deaths of children, such as the murder of Randal Dooley and the starvation death of infant Jordan Heikamp¹ re-ignited, reinforced CAS, government and public concerns about the effectiveness of child welfare legislation.

The government responded to these demands for change with a number of measures, including a new funding framework for child protection which is volume-sensitive and includes benchmarks for service, introduction of a mandatory risk assessment system, mandatory training for child protection workers and the development of an interactive networked database for the improved sharing of information among societies. The largest and perhaps most significant of the child welfare reforms came in the form of a series of amendments to the *CFSA* that were proposed to change critical elements in the protection and care of children.

2.3 Bill 6: An Act to Amend the CFSA

Introduced in 1998 (as Bill 73) the amendments to the *CFSA* received royal assent in 1999. Passing the provincial legislature as Bill 6, this was the most substantial change to the Child and Family Services Act in almost two decades. Its goal was to increase

¹ The deaths of these two children ignited public debate that also included coroner's inquests into the role that the children's aid societies could have played in their prevention of the loss of life.

protection for children considered at risk of abuse or neglect. Eight major areas of the act were affected: the purpose of the CFSA; grounds for determining whether a child is in need of protection; the inclusion of evidence of past parenting in child welfare proceedings; clarification of the duty to report abuse and neglect; improvement of CAS access to information; revisions to the maximum time for society wardship; access by parents to children in care; and, the guarantee of a regular review of the act. The changes to the act are summarized in Figure 1 and the themes associated with the reforms are discussed in the next section.

Figure 1

Summary of Major Changes to the Child and Family Services Act under Bill 6

Section of Act	C.F.S.A. Act (pre April 1, 2000)	Major Amendment
Section 1 - Purposes of the <i>C.F.S.A. Act</i>	To recognize that the least disruptive course of action to help a child should be <i>followed</i>	To recognize that the least disruptive course of action to help a child should be <i>considered</i>
Section 18, Subsections 19 (1), (3), (5), (6), Section 20 - Municipal Representatives	Included definitions, details of organization of CAS board of directors, power to make levies	Sections pertaining to municipalities are repealed; details struck out from subsections
Clause 29 (4) (b) -Temporary Care Agreements (T.C.A.)	Society shall not make a TCA unless satisfied that no less <i>restrictive</i> courses of action are appropriate	Society shall not make a TCA unless satisfied that no less <i>disruptive</i> courses of action are appropriate
Subsection 29 (6) - Time limits for T.C.A.	Allowed for a maximum of 24 months for children, with no stipulation of difference in length for younger versus older children. Under past rules, the <i>24 months were counted on a continuous basis</i> , i.e., if a child was sent home after 6 months, the “counter clock” would be reset to zero.	Specifies time limits for length of time in care of CAS via T.C.A. (i.e., <i>12 months</i> , if the child is <i>less than 6 years of age</i> and <i>24 months</i> , if the child is <i>6 years of age or older</i>)
Subsection 29 (6.2) - Previous periods to be counted	No stipulation of periods to be counted, especially periods of care and custody after a significant amount of time not in care	Period shall include any previous periods the child was in the society’s care and custody, other than periods that precede continuous period of 5 or more years that the child was not in the society’s care and custody
Clauses 37 (2) (a) and (b) Child in need of protection - definitions of / conditions	Clauses (2) (a) and (b) did not include pattern of neglect as a risk. Clause (2) (b) was stated as “there is a <i>substantial risk</i> that the child...”	Clauses repealed, inclusion of (ii) “ <i>pattern of neglect</i> in caring for, providing for, supervising or protecting the child”. Under both (a) “child has suffered”, and (b) “there is a <i>risk</i> that the child is likely to...”
Clause 37 (2) (d) - Child in need of protection	There is a <i>substantial risk</i> that the child is likely to be sexually molested or sexually exploited	There is a <i>risk</i> that the child is likely to be sexually molested or sexually exploited

Clauses 37 (2), (f) and (g) - Child in need of protection	The child has suffered emotional harm, demonstrated by <i>severe...</i> [see (i) (ii) (iii) (iv)], or there is a <i>substantial risk</i> the child is likely to suffer emotional harm. Inclusion of delayed development as criterion for child in need of protection. Amendment to (f) further specifies conditions under which child's parent or person having charge can be responsible	The child has suffered emotional harm, demonstrated by <i>serious</i> (i) anxiety (ii) depression (iii) withdrawal (iv) self-destructive or aggressive behaviour or (v) <i>delayed development</i> , and there are reasonable grounds to believe emotional harm suffered results from actions... (g) : there is <i>risk</i> the child is likely to suffer emotional harm
Subsection 50 (1) Evidence at Hearing: Past Conduct Towards Children	The court may consider a person's past conduct <i>toward any child that is or has been in his or her care</i>	The court may consider the past conduct of a person <i>toward any child if that person is caring for or has access to or may care for or have access to a child who is the subject of the proceeding</i>
Subsection 51 (3) - Adjournments, Custody during Adjournments, Criteria, Evidence on Adjournments	The court shall not make an order under clauses (2) (c) and (d) unless satisfied that there are reasonable and probable grounds to believe that there is a <i>substantial risk</i> that the child is likely to suffer harm	The court shall not make an order under clauses (2) (c) and (d) unless satisfied that there are reasonable grounds to believe that there is a <i>risk</i> that the child is likely to suffer harm
Subsection 57 (3) - Order where child in need of protection	The court shall not make an order removing the child from the care of the person who had charge of him or her unless satisfied that alternatives that are <i>less restrictive</i> to the child ...	The court shall not make an order removing the child from the care of the person who had charge of him or her ... unless satisfied that alternatives that are <i>less disruptive</i> to the child ...
Subsections 59 (2) and (3) - Access to Crown Wards	Did not include rules pertaining to the meaning of the relationship to the child, and did not stipulate about possibility of harming child's opportunity for a permanent placement. Subsection (3) gives the court additional conditions under which an access order to a Crown ward may be terminated (i.e., order is no longer in the best interest of the child)	Subsections (2) and (3) are repealed, replaced with conditions that access order to a Crown ward will be made only if (i) the relationship between the person and child is <i>beneficial and meaningful</i> , and (ii) ordered access will not impair the child's future opportunities for a permanent or safe placement
Subsection 61 (9) - Society and Crown Wardship - Removal from foster parent	Does not apply where there would be a <i>substantial risk</i> to the child's health or safety	Does not apply where there would be a <i>risk</i> that the child is likely to suffer harm to health or safety
Subsections 70 (1) and (2) - 24 Month Rule (similar to Subsection 29 (6))	Court shall make an order for society wardship under this part for a period not exceeding 24 months. In effect, the only options became Crown wardship or return of the child to the person having care before intervention after 24 months	Court shall not make an order for society wardship under this part (24 mo. rule) that results in the child being a society ward for a period exceeding (a) 12 mo. if child is less than 6 years (b) 24 mo. if child is 6 years of age or older.
Section 70 - Expiry of Orders	No provision for a maximum period of time under which the child's	The court may extend the period permitted under subsection (1) by <i>a period not to</i>

	protection order could be extended	<i>exceed six months</i> if it is in child's best interests to do so
Subsections 72(1), (2) and (3) - Duty to Report	<p>Previous legislation did not contain clarification that the Act applied despite other Acts. Amendments in Bill 6 further specify that this Act is in effect despite other Acts adhered to by professional, official duties that were not included in the former Subsections.</p> <p>This section places increasing responsibility on professionals to report. and indicates that, "Despite the provisions of any other Act, if a person, including a person who performs professional or official duties with respect to children, has reasonable grounds to suspect one of the following, the person shall forthwith report the suspicion and the information on which it is based to a society"</p>	(1-3) are repealed and replaced with an extensive list of stipulations that constitute grounds for duty to report ("has reasonable grounds to suspect"). Conditions are also found in Clauses 37 (2) (a-h) and now include patterns of neglect, and delayed development also included in amendments to Clauses 37 (2) (a) and (b)
Subsection 72 (2) - Ongoing duty to report	Does not specify requirement for ongoing reporting of concerns, even if new information was obtained from previous reporting	"A person who has additional reasonable grounds to suspect one of the matters set out in subsection (1) shall make a further report under subsection (1) <i>even if he or she has made previous reports with respect to the same child</i> "
Subsections 72 (3) - Ongoing duty to report	<p>Previous legislation provided that the duty to report could be delegated to others (especially including those in positions of higher authority). Under After Bill 6 the onus for reporting fell to the individual who must report directly to a CAS</p>	"A person who has a duty to report ... shall make the report directly to the society and <i>shall not rely on any other person</i> to report on his or her behalf"
Section 74 - Court Ordered Access to Information	<p>Act had allowed CAS to apply to the courts for information that was needed to protect children. Concerns however centered around time of process, and information pertained only to whether child was likely to be abused (and not other grounds for protection)</p>	Amendments allow for the <i>inclusion of all grounds for protection</i> , not just abuse in court ordered access to information. In <i>emergency situations</i> , CAS can ask the court for access to information, <i>without notice</i> .
Sections 75 and 76 - Child Abuse Register and Process of Removal	Section 75 contained the details of the Child Abuse Register, a province-wide data base that identified people alleged to have abused children	Sections 75 and 76 are repealed
Subsections 224 (1) – (5) Miscellaneous	Previously there had been no major amendments to the CFSA in over ten	Regular mandatory review of the Act at least every five years. Further specifies the

years, and there were no requirements for review

Minister is to inform the public when the review will take place and release the final report after the review

2.4 Summary of Themes in the Changes to the Child and Family Services Act

2.4.1 Purpose of legislation

Bill 6 clarified the paramount purpose of the *CFSA* as promoting the protection, best interests and well being of the child. The 1984 *CFSA* included this statement as a primary purpose, but five other purposes were also included in the *Act*. This purpose of child protection was not always given priority over competing principles. The amendment specifies that the paramount purpose of the *Act* is to protect children “over all competing aims.” Previously, the goals of the *Act* were often in opposition to one another, with the interests of child safety competing with the importance of the family, along with a preference for the “least restrictive alternative.”

2.4.2 From family-focused to child-focused

Pursuant to the clarification of the paramount purpose of the *Act*, the shift towards a more child-focused emphasis is reflected in modifications to the language of the legislation. In the original *CFSA* the phrase “least restrictive or disruptive course of action should be followed” placed greater emphasis on decisions that would recognize the strength of the family unit and give primacy to leaving the child with the family rather than pursuing the option of protection through placement with the CAS. The shift to more child-focused legislation is illustrated by the substitution of “best interests” for “least restrictive.” Thus, it became explicit that the needs of the child were to be given paramountcy over the rights of the family unit.

The amendments contain further stipulations regarding temporary care agreements and term limits for the length of time a child can be in care. Bill 6 gives greater priority to permanency planning for children, by giving families a limited amount of time and opportunity to demonstrate their ability to care appropriately for the child. The “revolving door” for children coming in and out of care has been replaced by a specified length of time (12 months and 24 months, depending on the child’s age) that the child can be in CAS care without application for Crown wardship.

2.4.3 Defining the basis for society protection

Among the most significant amendments is the lowering of the tolerance for risk that defines a child in need of protection and thus the jurisdiction for admitting the child into care. The inclusion of neglect and emotional abuse in the act provides child protection workers with a broader base of reasons for finding a child in need of protection. By replacing the requirement of “substantial risk” with simple “risk,” the legislation has given Children’s Aid Societies an opportunity to intervene before the child is hurt or injured. For example, prior to Bill 6, cases involving emotional abuse were not considered to involve a “substantial risk” and therefore could not serve as a basis for the society to proceed with an application for wardship.

2.4.4 Community responsibility for the welfare of children

Bill 6 has again emphasized the onus of reporting the need for protection by all persons in the community. Confusion about the requirements for reporting abuse was replaced with clarity and detail (Ministry of Children’s and Family Development, 2002). The *CFSA* previously recognized the obligation of certain professionals and community officials to report cases of child abuse to a Children’s Aid Society. Amendments have made this requirement explicit for the *suspicion* of abuse as well that falls to ordinary citizen’s duty under s. 72(1) to report a child in need of protection under the direction of “reasonable grounds to suspect. Bill 6 also clarified that for professionals, this duty cannot be delegated to a person in higher authority (e.g., a school principal), but must be reported directly by the suspecting individual (e.g., the teacher). There are penalties provided for breach of a professional/official who fails to report.

2.5 The Impact of Changes to the Child and Family Services Act

In British Columbia the shift towards more child-focused legislation has been identified as accounting for dramatic increases in child welfare admissions to care. Anglin (2002) argues that child-focused child welfare policies insure child safety through intermediate care provided by in-care child welfare services in contrast to family-focused policies that use “least restrictive alternatives” to provide intervention focused on maintaining the integrity of families. Anglin (2002), who was referring to revisions to the functions of child protection agencies in British Columbia, questioned whether other jurisdictions

were experiencing the same increases in the number of children taken into care. Child welfare practice in Ontario has begun to reflect dramatic increases in child admissions to care. The following section examines the practices of one CAS.

The Children’s Aid Society of London and Middlesex is a large child protection agency in southwestern Ontario. It serves a population base of approximately 400,000. Table 1 represents the number of children admitted into in care by month for the years 1993 - 2002. The period 1 January 1993 to 30 December 2002 displays a steady increase in children being admitted to care. Table 2 summarizes the total number of children in care at the end of the calendar year. In 1993, the total number of new child admissions into care was 290. By 2002 this number had increased to 544, down slightly from a high of 556 in 2001. In the decade ending on December 31, 2002 the total number of children in care had almost doubled. The demographics for the region served by the CAS of London and Middlesex remained fairly stable during this period.

Table 1

Yearly Child Admissions to CAS Care

Year	Number of Child Admissions to CAS Care*
1993	290
1994	371
1995	337
1996	369
1997	486
1998	437
1999	407
2000	481
2001	556
2002	544

*Note: * number of children admitted to CAS care from January 1- December 31 in calendar year*

Table 2

Total Number of Children in CAS Care

Year	Number of Children in Care*
1993	431
1994	442
1995	445

1996	485
1997	548
1998	598
1999	663
2000	724
2001	758
2002	833

Note: * number of children in CAS care reflected at the end of the calendar year

The steep increase in the number of children admitted to the care of the CAS of London and Middlesex, as with many other Ontario communities (Rivers et al., 2002), raises concerns about the sufficiency of resources available to CASs. Across the province, many societies are facing increasing numbers of children admitted to care with increasing costs for caring for these children. Despite the fact that a new Funding Framework was introduced in 1998 that is responsive to case volumes, this Framework has not been reviewed or improved since its introduction to reflect increased costs of doing business and cost of living. Currently, 50 of the 52 CASs run financial deficits (Liston, 2003). Fundamentally, there are two ways different ways for governments to deal with such situations: 1) commit more funds, and all that that entails; or 2) change the legislation. An examination of child welfare policy in British Columbia illustrates a situation where the latter alternative has been chosen.

3.1 British Columbia’s Return to Family- Focused Child Welfare Policy: Ontario’s Future?

British Columbia has experienced a steadily increasing number of children and youth in care of the Ministry of Children and Family Development since 1981 when its *Children, Family and Community Service Act* (1984) was introduced. The 1995 *Gove Report* which recommended “putting children at the centre” of decision making, is said to have contributed to the substantial increase in the number of children taken into care. In 2002, the number of children in care in British Columbia peaked at 10,775 or 1.10% of the total youth population. The average is 0.92% for all other Canadian provinces. The situation was deemed unmanageable by the British Columbia government from both fiscal and child welfare policy viewpoints. On October 29, 2002, Bill 65, the *Community Services Interim Authorities Act* (2002) was passed by the B.C. legislature. It reflected a shift in

policy that was child centred to one that emphasizes keeping families together. The “new” vision promoted by the Ministry of Children and Family Development reflects “a belief in the right and primary responsibility of families to protect and support the growth and development of children and youth,” and the view that “this ministry should provide the minimal intervention necessary to ensure the safety and well-being of our most vulnerable community members” (Community Services Interim Authorities Act, 2002). This “new” principle mirrors Ontario’s previous *Child and Family Services Act* (1984), that recognized that the least restrictive or disruptive course of action that is available and appropriate in a particular case should be followed. This strategic shift in B.C. has placed increased responsibility for the welfare of children back in the hands of the family and promotes this alternative as having the potential to improve outcomes for children.

This turn of events may be of particular interest to Ontario, which is now being challenged with the moral and fiscal responsibility of meeting the needs of increasing numbers of children being taken into care. What future policy directions may Ontario take to alleviate this situation? If British Columbia is any indication, a return to a “family focused approach” may be a policy option. Its desirability is open to debate, and if history is any indication, it will be a passionate one.

Anglin (2002) suggests that a shift towards concepts such as “the best interests of the child” and the “move to paramountcy” in child protection may go “too far” in protecting children. Placing more emphasis on the child may have inadvertently increased other risks, including removing children from their home environments in inappropriate situations. As far as we know, no systematic research has been done to determine whether this is the case.

Child welfare practices and the rates of admission to care provide a barometer for how child welfare professionals and the courts interpret the intent of child welfare legislation and policies. Ontario’s new child-focused policy has precipitated increased admissions into care to promote child safety. What is missing from most reviews of the impact of child welfare policies is an examination of the extent to which such policies affect the children and families themselves, beyond the mere fact that more children are being admitted into care. For example, assuming an increase in provision of long-term care through wardship, what will be the long-term consequences on the adjustment of the

children and their families? Research examining the question of impact of legal and policy changes to child welfare in North America has been limited mostly to broader systemic implications. Do child-focused policies reduce the numbers of abused and neglected children? What is the impact of new child welfare policies if they happen without interventions that target the real culprits in child safety? Recent social policy reviews in Canada have identified systemic risks to child safety such as family violence and poverty (Willms, 2002). A broader context to evaluating the impact of child welfare policy that includes the major predictors of risk to vulnerable children is necessary to address whether it is policy or social conditions that is accounting for increasing rates of child admissions to care.

4.1 Conclusion

The history of changes to legislation dealing with the protection of children in Ontario highlights a number of facts, not the least of which is that there is very little research that has been conducted on an on-going basis that is designed to assess the impact of legislative changes or changes in child welfare practices on the well-being of children. Deaths of children have led to media attention, political attention, political attention, reviews, inquests and reform. But the process itself has not been driven by systematic research findings from which it could be concluded that problems existed in the first place. Trocme, MacLaurin & Fallon (2000) have proposed a strategy for tracking the welfare outcomes of children removed from or left in a variety of conditions. They assess well-being in terms of children's cognitive development and security in attachment in the context of whether children are admitted to CAS care or provided home-based service that sustain the integrity of the family. This type of research can assist in the development of appropriate legislative and policy options where the emphasis is not on change merely for the sake of change or as a knee-jerk reaction to a few sensationalized cases, but on what changes are most likely to benefit children now and in later life (Rossi, Freeman & Lipsey, 1999). Clearly, this is the next level of investigation needed to provide meaningful input to the implications of major shifts in the child welfare system.

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