

Finding the Best Ways Forward
Saskatchewan Counsel for
Children Program

Betty Ann Pottruff, Q.C.

What is the goal and philosophy of the
program?

- The goal of the CFC program is to ensure that the voice of the child or youth is heard in child protection proceedings.
- The philosophy of the program is to empower children/youth as individuals as expressed in the UN Convention on the Rights of the Child.
- The Objectives of the program include:
 - Providing timely appointments for legal representation
 - Establishing best practices, supports, and standards for quality legal representation;
 - Creating a body of lawyers with expertise and experience in this area of law; and
 - Promoting understanding and support for the importance of hearing the voice of the child in child protection and related matters that affect them.

What is the scope of the Counsel for Children
Program in Saskatchewan

- The Counsel for Children program, implemented in December 2014, is a service offered through the Public Guardian and Trustee Office, Ministry of Justice.
- It provides counsel to children and youth involved in child protection proceedings across Saskatchewan upon referral by someone or by the courts.
- Trained private bar roster lawyers report on work done and on the type of client service – instructional or not – with every invoice.
- For further information see:
<https://www.saskatchewan.ca/residents/justice-crime-and-the-law/courts-and-sentencing/counsel-for-children>.

What model of services do you provide?

- The program engages the services of private Bar counsel to represent children and is centrally managed by Children’s Counsel in Regina.
- The model of representation is instructional advocacy where the child’s views can be determined.
- In cases where it is not possible to obtain the child’s views, the role is that of an amicus curia to ensure the interests of the child are clearly before the parties and the court when decisions are made.

Key examples of challenges faced?

- Maintaining awareness and acceptance of the program and the importance of children having a voice.
- In Saskatchewan, the child, by statute, is not a party to the child protection proceeding. This creates problems in fully representing the child – for example, no clear ability to apply for variation of an order. However, counsel has been recognized as having “status” to appeal court decisions.
- Complex cases involving custody and access and child protection matters are problematic as roster counsel are only appointed for the child protection issues, yet clearly the views of the child are relevant to the custody and access matter.
- How do counsel carry out their role in cases where child is unable or unwilling to express views?
- Maintaining a roster of trained private counsel to serve the needs of the province.

What best practices can Saskatchewan speak to?

- Protocol with the Boards of Education and Ministry of Education on how roster counsel can work with the school system:
 - Many Saskatchewan children live in small urban, rural or remote communities.
 - Counsel need to meet with their child clients in a location that is safe and comfortable for the child and also safe for counsel.
 - An protocol has been developed with the School Board Association and the Ministry of Education, setting out how counsel can work with schools, including when meeting with the child at school is appropriate.
- All roster counsel need 3 hours per year of relevant training. This is supported by quarterly roster conference calls to discuss program and practice issues which calls qualify for professional development credits.

Lessons learned?

- Need to continuously work on building relationships and understanding to support referral to and cooperation with the program by family, foster parents, First Nations and Ministry child protection workers, courts, etc.
- The benefits of conducting joint training with lawyers doing child protection work – CFC roster counsel, legal aid and Ministry counsel/agents – plus senior child protection staff.
- Continuous need to recruit and train roster lawyers
