



35 Years at JFCY - 2013

Before: The late 1970s were a time of community and grassroots organizing. They were a time of public awareness of human rights that would soon lead to Canada's having its own constitutional independence and a Canadian Charter of Rights and Freedoms. They were a time when some 1960s idealists were impatient to effect change in the world in which they found themselves working and living. Some of them worked to open the first community legal clinics. The 70s were a time when Jeffrey Wilson was a law student at Osgoode Hall Law School and Fred Zemans was a law professor and both were interested in legal clinics as central to advocating for rights for vulnerable and poor populations. Jeffrey wondered why there was no clinic for young people. Fred wondered too and together they wondered how to make it happen.

1978: Justice For Children & Youth is incorporated formally as Canadian Foundation For Children and the Law (but known from the beginning as Justice For Children) to promote the rights of children as individuals under the law. One of our founding directors was June Callwood. JFC submitted a brief "Lawyers For Children: Where are we going?" to the Attorney General. JFC established liaisons with community groups, parent advocacy organizations and government officials.

1979: JFC engaged in advocacy on behalf of children and families and sponsored a lay family advocate project in the Flemingdon Park area of Toronto. A Northern caucus of JFC was initiated in Thunder Bay. JFC brought a test case involving the right to treatment in residential care.

1980: JFC sponsored outside counsel to test the legality of pre-trial detention of young persons in adult jail in Moosonee, Ontario. JFC published a rights booklet for children : "Everything You Wanted to Know About Your Rights, But Were Afraid to Ask." University of Toronto students began to work with JFC to provide legal services to youth on a volunteer and part-time basis. Law reform efforts regarding special education were carried out and JFC recommendations adopted by the government committee.

1981: JFC opened its doors as a legal clinic for low income children and youth. In addition, law and social work students provided public legal education to young people and sought input from youth about their experiences. This project evolved into a specialized program of legal education for youth in residential care. A training program for lawyers was initiated. The youth advisory board (now the Youth Action Committee or "YAC"), allowing for direct input from young persons in clinic matters, was created.

1982: At the end of lengthy discussions with the Clinic Funding Committee of the Law Society of Upper Canada (now replaced by Legal Aid Ontario, "LAO"), JFC became part

of the province-wide legal clinic system, and began to receive core operational funding in a more predictable way in order to provide direct legal services to children and youth with a focus on juvenile justice, special education, 16 and 17 year old youth in transition and youth in residential care. The clinic continued its work with the native community in training native court workers about child welfare and juvenile justice issues.

1983: JFC continued its child witness assistance program, helping young victims faced with the prospect of testifying in criminal proceedings.

1984: JFC distributed two important publications: A guide for teenagers about the youth justice system , "Know Your Rights" and "Access to Services: A Handbook for Child Advocates".

1985: JFC successfully represented the family of a disabled child with the Board of Education, re-enforcing that school programs for "hard to serve" children must be created.

1986: JFC represented young people who had been refused social assistance after leaving volatile home situations. JFC affirmed the right of youth to financial aid to stay in school.

1987: JFC challenged Social Assistance guidelines in Ontario which denied a family's request for funding to make their home physically accessible to their child. A precedent was set for low-income families in terms of the provision of funding to modify home environments for children with unique physical needs.

1988: When a young person in Toronto was to be tried as a young offender for a minor crime, with a consequence of a jail term, JFC petitioned on behalf of the youth for an alternative to proceeding through the court system. JFC presented the benefits of alternative measures to sentencing wherever a non-violent crime is alleged and a young person has admitted responsibility. JFC appeared before the Ontario Court of Appeal and the Supreme Court of Canada in this regard. As a result of the efforts of JFC, Ontario instituted and now maintains an alternative measures program.

1989: JFC made legal submissions on behalf of a 15 year old orphan who was denied access to adequate resources across the various systems. JFC created and distributed the first run of its Teen Street Guide. By 1996, more than 40,000 copies were distributed.

1990: The Canadian Foundation for Children and the Law (Justice for Children), officially changes its name to the Canadian Foundation for Children, Youth and the Law (Justice for Children and Youth), ("JFCY").

In a series of cases, JFCY represented the interests of the child in cases where parents and Children's Aid societies were at odds with the best placement for the child. JFCY acted as the legal representative for the child in each case.

JFCY relied on a non-legal solution to help a young boy. When a visiting child from Grenada required extensive medical care and was denied coverage by the Ontario Health Insurance Plan, JFCY searched until donated care was provided by the Shriners Hospital. When a study revealed that young offenders were often held in pre-trial detention from 6 months to 2 years before a trial was even set, JFCY challenged these delays. In many cases, the pre-trial delays had been longer than a sentence might have been.

1991: JFCY represented several child victim witnesses, particularly those experiencing abuse at home and worked with counselling agencies to obtain coordinated care for child victim witnesses.

JFCY produced a video for young people on the legal system and an extensive booklet for youth in conflict with the law entitled "Know Your Rights". The booklet was updated in 1997.

JFCY represented children locked in secure mental health institutions who were judged to be free from risk of violence to themselves or others. A community of agencies including JFCY lobbied for more appropriate treatment facilities for young people.

1992: At the request of legal counsel for several youth, JFCY was asked to inspect a block of prison cells used for young offenders. After inspection, JFCY advised the court that the cells did constitute cruel and unusual treatment. These cells were closed soon after.

After a group home responded to a house conflict by holding a youth face down on the ground for 30 minutes, JFCY argued to the courts that group home clients should not resort to violence nor should they be victims of violence. JFCY began teaching group homes methods of handling conflicts in-house rather than through the court system.

1993: JFCY continued its groundbreaking work in alternative measures to minor disputes by beginning peer mediation programs in the school system. By the end of 1994, two such programs existed and the Attorney General's Office recognized peer mediation sessions as an official alternative to the criminal justice system. JFCY was asked to consult on a series of such province-wide projects.

1994: JFCY represented several youth who had left dangerous home situations in discrimination suits against landlords. JFCY highlighted the problem of age discrimination in housing where young people have the ability to pay for rent, need housing to stay in school or stay independent, but are denied housing because of their age. JFCY made legal submissions to the Ontario Human Rights Commission in this regard.

1995: When 2 siblings aged 5 and 6 were adopted to Canada from Mexico and then separated 2 years later by the adoptive parent, JFCY at the request of another agency, defended the right of the boy to continue to have contact with his sister. JFCY appeared on several appeals but ultimately, in 1998 obtained an order granting the boy access to his

sister, at the discretion of the local child welfare authority. JFCY also represented teenagers who wished to maintain contact with their siblings in a safe environment after leaving a dangerous home situation.

With funding from Justice Canada, JFCY created a 35 minute video for schools to show youth at risk how they can avoid conflicts and crimes.

JFCY appeared twice before the Supreme Court of Canada to argue for the protection of privacy in the counselling records, Children's Aid Society and other records, of child victim witnesses.

1996: JFCY made written submissions to the Supreme Court of Canada on behalf of children and of the Learning Disabilities Association of Ontario with respect to the equality rights of pupils with disabilities. In its decision, the court referenced the right of capable, mature pupils to express their views and wishes with respect to appropriate placement.

JFCY was counsel to several youth who alleged beatings at the hands of jail guards at Elgin Middlesex Detention Centre. JFCY called for action in relation to these allegations and the tragic death of James L. at the Wellington Detention Centre. Charges were laid in the Elgin Middlesex matter and in 1998, three convictions against guards were registered. JFCY represented several of the youth with respect to privacy and institutional advocacy issues. JFCY started preparations to seek standing at the inquest into the death of James L. (eventually heard in 1998/99) in order to raise systemic issues relating to children and youth in care.

1997: JFCY intervened before the Newfoundland Court of Appeal to argue that youth court dockets which include allegations against non-students should not be distributed to schools.

JFCY successfully challenged discriminatory welfare laws as they pertain to 16 and 17 year old youth in Ontario. Unfortunately, the government successfully appealed the decision to the Ontario Divisional Court in May of 1998.

JFCY expanded its coordination of peer mediation projects in partnership with the schools and justice system, across the greater Toronto area, in cooperation with the Ministries of Education, the Solicitor General/ Corrections and the Attorney General.

1998: JFCY obtained partial funding from the Court Challenges Program to challenge the corporal punishment provisions of the Criminal Code and worked with educators and other professionals to stop the use of and legislated excuses for violence against children. JFCY obtained standing to present legal argument to the Supreme Court of Canada with respect to the application of the U.N. Convention on the Rights of the Child in Canadian law and its use by administrative decision-makers in the immigration law context.

JFCY expanded its peer mediation projects by initiating and setting up a project in Brantford, Ontario.

1999: JFCY began its Street Youth Legal Services (SYLS) project, sending a half-time lawyer to shelters and drop-in centres where street-involved youth are found. JFCY intervened in a deportation case at the Ontario Court of Appeal. The decision was reserved until the Supreme Court of Canada held, in the 1998 case, that the U.N, Convention on the Rights of the Child and the best interests of the child must be taken into account in considering a parental deportation. JFCY was granted status and successfully argued before the Supreme Court of Canada that it is a breach of the privacy rights of young people to disclose court dockets, as a matter of routine, to school boards.

JFCY was granted party status and made recommendations to the jury in the inquest inquiring into the death of James L. a young person killed in an adult correctional facility. More than three-quarters of our recommendations were adopted by the jury.

2000: JFCY launched its website which was developed by high school students from L'Amoreaux Collegiate www.jfcy.org. The website contains all of the information in Know Your Rights and Age-Based Milestones. It also features the ability to email a question to a JFCY lawyer.

JFCY was granted status to intervene at the Ontario Court of Appeal to argue for the right of young people to counsel when charged under the Young Offenders Act.

JFCY launched, on behalf of several young people, a constitutional challenge to the Safe Streets Act on the basis that the squeegeeing and panhandling provisions that can result in jail violate several sections of the Charter of rights and Freedoms and are unconstitutional.

JFCY submitted a brief and made a presentation to the Federal Standing Committee on Justice about the proposed Youth Criminal Justice Act

2001: The corporal punishment challenge was argued in the Ontario Court of Appeal.

JFCY, with funding from the Department of Justice, did focus-group research across Ontario to learn the main misconceptions held by youth about the Young Offenders Act.

JFCY was granted party status at the inquest into the death of a young person who was killed by a staff person at a group home who was applying a "restraint". Many of our recommendations were adopted by the jury and have been accepted by the Ontario government.

JFCY, with funding from the National Crime Prevention Centre, launched a project to restore peer mediation as a diversionary option for young people caught up in the justice system.

Our street youth legal services lawyer began to work full time with Toronto youth.

2002: JFCY was granted intervenor status by the Ontario Court of Appeal to argue that parents have a fiduciary obligation to disclose their identity to their children. The Court decided the case without answering our question.

JFCY was granted intervenor status in a deportation case in which immigration officials argued that it was sufficient to satisfy the best interests of children if deportation would not cause them undue hardship. This area of law is still quite uncertain.

JFCY successfully intervened in an application for an injunction to permit a gay high school student to attend the school prom with his same sex date. To support our work with street youth, we did an extensive needs assessment of street youth in Toronto.

JFCY developed a partnership with Pathways to Education in Regent Park, providing workshops, in small groups, to every student participating in Pathways.

JFCY successfully intervened in an education case at the Ontario Court of Appeal and successfully argued that exclude students from a particular school placement in defiance of the special education plan for the student.

2003: With SCPI funding from the City of Toronto and artwork created by a street-involved young person, we produced a series of 5 plastic cards addressing the most common legal issues for homeless young people.

JFCY produced a series of 12 information sheets for staff at agencies working with homeless young people, “Street Law Smarts”.

JFCY produced 2 pamphlets for students and parents: one on school suspensions and one on expulsions.

In partnership with The Advocates Society and Pro Bono Law Ontario, we developed the Child Advocacy Program, in which we provide training and support to lawyers who agree to take pro bono cases for children.

JFCY argued its constitutional challenge to the corporal punishment provision (s.43) in the Criminal Code before the Supreme Court of Canada. The Supreme Court released its decision on corporal punishment. Children are now completely protected from corporal punishment in schools and severe limits have been placed on parental use of physical punishment. Children under two or in their teens are protected from physical assault by anyone including parents.

The decision of the court in our 2002 deportation case (Hawthorn) was released. The court agreed that deportation decisions must take into account the best interests of the child.

JFCY made a written and oral submission to the Human Rights Commission. Many references to our submissions appear in the final report: “Opportunities To Succeed”.

As a result of our research revealing many strong misconceptions held by young people about youth criminal records, the Department of Justice asked us to produce a series of three plastic cards on this topic.

JFCY moved to Yonge Street, closer to other youth-serving agencies and much of our client population.

2004: JFCY was granted party standing at the Inquest into the death of another young person in custody. The jury adopted our recommendations with respect to closing TYAC and replacing it with small community-based facilities. The jury also agreed with us that the United Nations Convention on the Rights of the Child provides a minimum standard for young people in Ontario. The government announced the closure of TYAC.

We made written submissions to the Ontario Minister of Education and to the Toronto District School Board’s Safe and Compassionate Schools Task Force with respect to the safe schools provisions of the Education Act and their implementation.

JFCY organized a national symposium on the corporal punishment provisions in the Criminal Code following the Supreme Court decision. The same evening JFCY organized a fundraiser with Barbara Coloroso

We made a written submission to the Senior Justice of the Peace concerning the illegal jailing of homeless young people who had received tickets under the Provincial Offences Act. The unauthorized practice has ceased.

With Department of Justice funding, JFCY published a book on the Youth Criminal Justice Act, a new version of “Know Your Rights”. It was distributed across Canada. The book is approved for the curriculum by the Province of Saskatchewan and Connais Tes Droits is used by every French immersion student in Prince Edward Island.

2005: Following three trips to Kenora, Red Lake and Rainy River in the last three years (and delivering 12 workshops and presentations) a local group has become empowered to inform families of their education rights, especially with respect to special education, student discipline and aboriginal issues.

JFCY intervened in two Supreme Court cases on the Youth Criminal Justice Act. The SCC agreed with JFCY that neither general nor specific deterrence is a factor to be considered in sentencing young people. The other case concerned the interpretation of “serious violent offences”.

JFCY was invited to appear before two Senate committees: about Canada’s progress in conforming to its international obligations under the United Nations Convention on the

Rights of the Child and the potential role of a national Children's Commissioner; and about the Senate Bill to repeal section 43 of the Criminal Code (corporal punishment).

2006: As part of a Canada-China Justice project, our Executive Director went to Wuhan, China to give presentations at a Chinese conference exploring how to increase access to justice for vulnerable populations such as children, women and people with disabilities. Our educational plastic cards and other PLE materials were also shared.

JFCY went to the Court of Appeal for Ontario to argue that the Safe Streets Act violates the Charter rights of homeless and street involved young people, and is unconstitutional.

New pamphlets on a number of legal issues and plastic cards on education rights (suspensions and expulsions) were developed by our Youth Action Committee (YAC).

2007: JFCY intervened at the Supreme Court of Canada in a case concerning "lockdowns" in schools and the use of sniffer dogs to do random searches of students and their belongings. A majority of the Court agreed that such dogs were searching without grounds and, therefore the searches were not lawful.

JFCY intervened on a case at the Supreme Court on presumptive adult offences. The SCC ruled that a separate youth criminal justice system was a principle of fundamental justice.

JFCY began to work with a Partnership Development Co-ordinator to help with its fundraising efforts. In October, the clinic also held a musical fundraising event with a silent art auction. The evening honoured Peter Rosenthal, a lawyer who worked with the clinic in its representation of a dozen homeless young people who had been targeted for their squeegeeing and panhandling activities and wanted to challenge the Safe Streets Act. The event raised more than \$10,000 for our Street Youth Legal Services Program (SYLS).

The clinic submitted a brief to the provincial legislature on the Safe Schools Act. Most of its submissions were adopted in the amendments to the act that were passed in 2007.

2008: For the first time The Trillium Foundation and The McLean Foundation joined The Law Foundation as contributing funders of SYLS.

JFCY joined the Ontario Bar Association in organizing the Second Annual "Law Day" Event for Toronto High School Students.

JFCY was granted intervener standing at the SCC in a case in which a 14 year old girl has challenged provisions in the Manitoba child welfare legislation which allowed child protection authorities to override her refusal of a blood transfusion through a court order.

JFCY was granted intervener standing in a case address the interpretation of the phrase in s. 39(1)(c) of the YCJA "...a history that indicates a pattern of findings of guilt ...",

specifically addressing its generalized impact on young persons before youth justice courts, and also the content and quality of a pre-sentence report when seeking custodial sentences.

JFCY was granted intervener standing at the SCC in a YCJA case that dealt with the issue of what it means to have a waiver of the right to silence explained “in language appropriate to his or her age and understanding”, as provided by the Youth Criminal Justice Act – particularly in the case of a young person with a learning disability.

2009: JFCY (with the CCRC) was granted intervener standing at the SCC arguing that the Canadian government has a duty to protect a child who is a Canadian citizen, when that child’s human rights have been violated in another country. We argued that this child’s rights, having been a child soldier, must be viewed and determined in the context of the best interests of the child and the corresponding domestic and international laws.

JFCY continues to have social work placement students to enhance the services to our clients and to encourage a child and youth rights based approach to social work education.

2010: JFCY was granted intervener standing at the SCC supporting the criminal code provisions that provide for “testimonial aids” for child witnesses. We argued that child witnesses are particularly vulnerable and may require unique supports as victims of crime. The court upheld the constitutionality of the provisions.

JFCY was granted intervener standing at the Divisional Court in a case that considered how far Schools and School Boards can go when disciplining students for conduct that occurs off school property. The Court said that the principal’s original expulsion could not stand, and held that a Principal must have evidence of a “nexus” between the student’s off-campus misconduct and a negative affect at school.

With a grant from the Trillium Foundation JFCY is able to conduct a research project, with Professors Stephen Gaetz and Bill O’grady, on the experiences of homeless and street involved young people. In the first of 2 reports, “Surviving Crime and Violence”, the researchers explore the relationship between youth homelessness and criminal victimization. The report highlights the extent to which the lives of young people who are homeless are characterized by high levels of crime and violence

JFCY creates a new committee of volunteer young people (“PLE”) who assist in creating a social media presence for JFCY through a blog and the creation of a number of you tube videos.

2011: JFCY was granted intervener standing at the Ontario Court of Justice and at the Court of Appeal for Ontario in a case challenging the constitutionality of the Criminal Code provisions that mandate the taking of DNA samples for certain offences. The Court upheld the constitutionality of the provisions confirming their application to young people.

JFCY authors a portion of the Canadian Coalition for the Rights of Children's independent report on Canada's compliance with the United Nation's Convention on the Rights of the Child. The report entitled "Right in Principle, Right in Practice" was submitted to the UN Committee on the Rights of the Child to inform its 3rd periodic review of Canada's implementation of children's rights.

JFCY acts as amicus curiae in a youth criminal justice court matter where the news media sought to get access to youth court records including pre-sentence reports. The court adopted JFCY's argument that the YCJA's special privacy protections prohibited the routine release of young people's intimate personal information such as that contained in PSRs. The decision was later cited by the SCC in another youth privacy rights case.

JFCY makes submissions to the Provincial Child Advocate's "Youth Leaving care Hearings" at the legislature. Our submission focused on the impact of leaving care on homeless and street involved young people.

JFCY's research, made possible by a grant from the Trillium Foundation, produces the second of 2 reports "Can I See Your ID? The Policing of Youth Homelessness". The research explores the ways in which homelessness has been criminalized, and raises serious questions about the use of law enforcement as a strategy to address the visibility of homelessness in Canada.

Executive Director of JFCY travels to Africa with the CBA's "East Africa project", as an international expert on providing legal services for young people.

2012: JFCY was granted intervener status at the SCC in a case from British Columbia where a student with dyslexia had been denied the accommodation he required in school for his disability. In its decision the Court said that access to adequate special education is not a dispensable luxury, but is required to ensure access to education.

JFCY was granted intervener status as part of a coalition at the SCC in a case deciding the appropriate legal test for public interest standing. The Court said that the test must not be rigid and must serve the underlying purposes of the law on standing. The decision confirms the ability of organizations like JFCY to bring legal challenges on behalf of vulnerable people and groups who do not have effective access to the justice system on their own.

JFCY makes submissions to the Federal Standing Committee on Justice on the government's proposed amendments to the YCJA.

2013: JFCY represents the Empowerment Council, who is granted party status at the Inquest into the death of a young woman who spent nearly all of 3 ½ years in custody in secure isolation. She died while engaging in self-injurious behavior in her cell in a federal penitentiary. The Inquest heard evidence throughout all of 2013.

JFCY joins doctors and refugee lawyers as a party to a Federal Court challenge to the federal government's cancellation of the Interim Federal Health Program – a program that provided health care coverage to refugee claimants. The cancellation of the coverage has left many refugee children without basic health care coverage and has left them at risk of serious medical complications because of untreated health issues.

JFCY, with special funding from LAO, makes significant progress in expanding its French language services by making all of our publications available in French.

JFCY is in the process of launching a significantly revised website - making the website bilingual, vastly improving the website functioning, and improving our social media capacity.

JFCY continues to pursue law reform efforts to stop the police practice of maintaining youth records of police involvement beyond the periods for record retention outlined in the YCJA, and to stop the police practice of releasing information about young persons police records in “records” checks, by making several deputations to the police services board.