



Annual Report 2016



JFCY Staff

From top to bottom, left to right - in same order as listed on right Staff list.



Justice for Children and Youth (JFCY)

is a non-profit community legal aid clinic that specializes in protecting the rights of young people facing conflicts with the legal, education, social service or mental health systems. JFCY was formally incorporated as the Canadian Foundation for Children Youth and the Law in 1978, and has operated as Justice for Children and Youth since 1990. This year we celebrate our 38th anniversary.

JFCY's mission is to protect and advance the legal rights and dignity of children and youth in Canada. Voice and empowerment are important tenants of the mission. Providing children and youth with the tools and context which allows them to speak for themselves as individual rights holders in our society is the most effective way to preserve their rights.

JFCY's vision is to increase our impact on the rights and dignity of children and youth by providing a deeper offering of sustainable community development, public legal education and direct legal services.

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Jane Stewart, Staff Lawyer
Jesse Mark, Staff Lawyer
Jenna Persaud, Staff Lawyer
Claire Millgate, Intake Lawyer
Karien Gibson, Office Manager
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Message from the Chair

This past year has been one of change and growth for the organization. After a competitive process we increased the board complement with experts in human resources, fundraising and communications. It has been a pleasure to work with such dedicated volunteers. The clinic moved locations to the co-location site with an impressive group of specialty clinics, further enhancing our ability to engage with the social justice community and to thereby better serve our clients. The offices look great too!

Last year we sought to obtain permanent funding for our essential Street Youth Legal Services, an ongoing funding challenge for many years. We are grateful to Legal Aid Ontario for recognizing how essential this service is to our community and now including it as part of the clinic's core funding. The overall increase in Legal Aid funding has enabled the clinic to further serve low income young people.

The staffing capacity has been increased to meet these needs at a critical time. Last year I mentioned a report that called Toronto the child poverty capital of Canada. Sadly, the most recent *Toronto Vital Signs 2016 Report* says that Toronto retains that title for 2016, but also mentions that thirty GTA ridings have child poverty rates above the national average. The work of Justice for Children and Youth is vital to ensure that the rights of children and young people living in these conditions are respected, many of whom experience adversity in multiple sectors that impact their lives. I am proud to support the dedicated work of our staff on behalf of the young people of Toronto and the province.

Cheryl Milne, Chair and President



Message from the Executive Director

It's been another exciting year at JFCY. We continue to provide access to justice to one of the most vulnerable populations, young people living in poverty in Ontario. In this Annual Report, we highlight our last year of activities to meet our mission: voice, empowerment, and justice for children and youth.

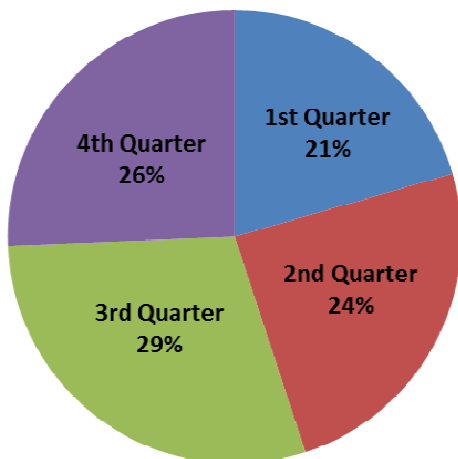
I commend the entire JFCY team for their professionalism, skill and dedication to the work of JFCY. Their resilience has been demonstrated time and again, in advocacy and legal representation at all levels of administrative tribunals and courts on complex legal matters and in our community development, law reform and public legal education activities.

We are very grateful to the Law Foundation of Ontario for their many years of support for our Street Youth Legal Services (SYLS) program; and wish to thank Legal Aid Ontario for providing core funding for this program, and for additional funding for another lawyer position. This security allows us to meet the ever-growing demand for our services as demonstrated in this Annual Report.

JFCY's success would not be possible without the support and commitment of our Board of Directors, students, volunteers and donors. Thank you for all you do in supporting the provision of access to justice to Ontario's most vulnerable children and youth.

Emily Chan, Acting Executive Director

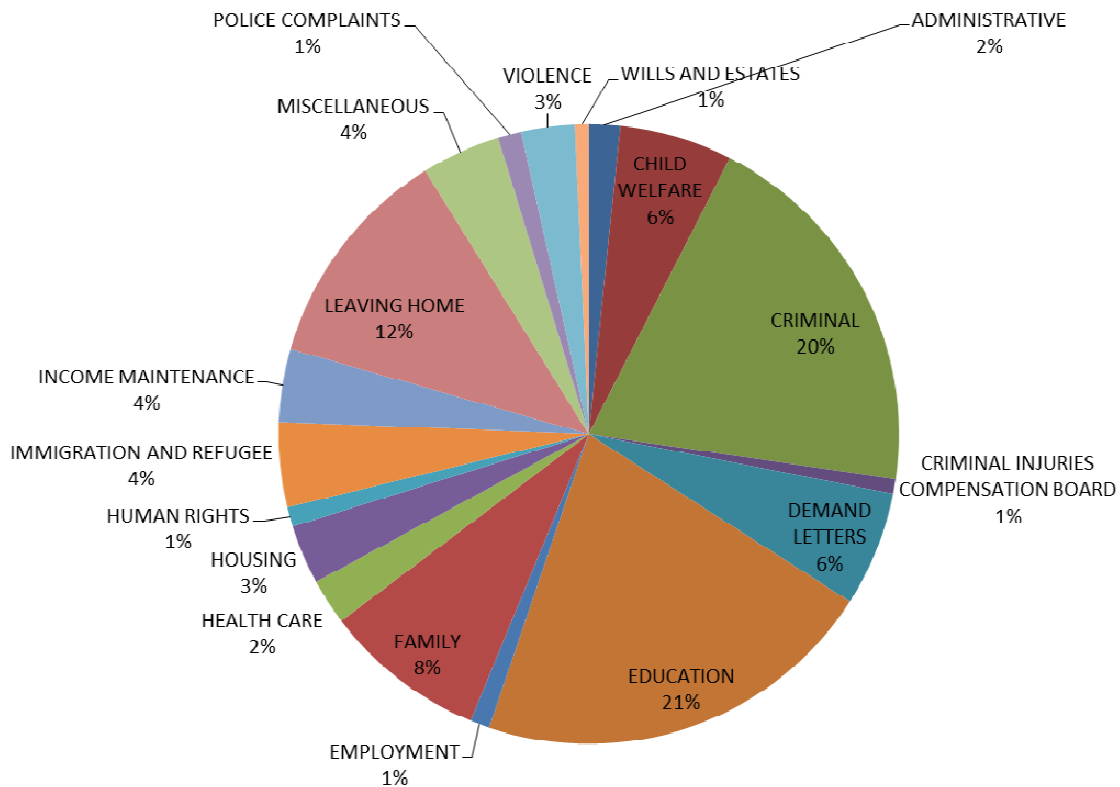
Intakes: Oct 2015 - Sep 2016



Quarter	Number
1st Quarter	404
2nd Quarter	481
3rd Quarter	579
4th Quarter	505
Total	1969



Intakes: Areas of Law / Subject



Area of Law / Subject	Number	%
Administrative	32	2%
Child Welfare	116	6%
Criminal	390	20%
Criminal Injuries Compensation Board	15	1%
Demand Letters	118	6%
Education	416	21%
Employment	20	1%
Family	167	8%
Health Care	47	2%
Housing	61	3%
Human Rights	20	1%
Immigration and Refugee	87	4%
Income Maintenance	75	4%
Leaving Home	231	12%
Miscellaneous	81	4%
Police Complaints	24	1%
Violence	55	3%
Will and Estates	14	1%
TOTAL	1969	



Client Casework

The staff lawyers at JFCY provide legal representation in all areas of law affecting low-income children and youth under 18 (and homeless youth under 25, see pages 8-9). Direct representation is primarily provided within the Toronto area, plus limited legal services across Ontario. In addition, we support lawyers across the province who provide child-rights oriented representation.

The following cases illustrate some of the typical issues that arise and the context in which JFCY's clients find themselves in:

Representing a 15-year old student's privacy rights at an appeal of his expulsion from school before the Child and Family Services Review Board. The school sought access to his medical records because the expulsion was based on information he provided to a social worker in a hospital, who then shared the information with police, who then shared it with the school.

Acting as *amicus* in an application by a plaintiff in a negligence action against a residential program and Z.W. (young person who was not present, nor represented); the plaintiff sought access to a pre-sentence report protected under the *YCJA*.

Worked with the Advocacy Centre for Tenants of Ontario (who represented the parent) on a judicial review of an eviction matter where a landlord sought to use the youth court records of a youthful occupant without a youth court order.

Representation of two different clients on leaving home issues. In one case, the lower court affirmed the young person's withdrawal from parental control by way of Declaration. In the other case, the lower court found that the young person had not withdrawn from the parental control of both parents but ordered that no person has custody over the young person. In both cases, the father has appealed to the Ontario Court of Appeal and seeks custody of the young person.

Representation of clients referred from the Cross Over Youth project (see page 10 for project information) including a young person who was pregnant and had 18 charges across two jurisdictions. All charges were resolved and the client is under a one year common law peace bond.

Assisting a lawyer in a northern community protect the privacy rights of a young person's counselling records in the context of a custody and access dispute.

Conducting a sentence review for a client who was found guilty of a criminal act. In line with the *YCJA*, the young person's one year probation sentence for an indictable offence was reduced to an absolute discharge and his record retention period was reduced from six years to one year.

Duty Counsel in Truancy Court

Providing duty counsel services in Truancy Court at 311 Jarvis Court is a new initiative for JFCY. We are hopeful that we will have an impact in reducing the use of the justice system to address truancy issues; and ensure young people are not given inappropriate sentences for school absences.



Test Case Litigation

JFCY's engagement in test case litigation aims to protect and advance the legal rights of all children and youth, ensure decisions comply with domestic law and the *Charter*, and focus the court's attention on the Bests Interests of the Child principle as provided for under the United Nations *Convention on the Rights of Child* and international law. This year's test cases include:

BB and Justice for Children and Youth v Minister of Citizenship & Immigration,
Federal Court, 2016

JFCY acted as a public interest litigant in a judicial review of a woman being held in immigration detention with her Canadian-born daughter for almost a year; the government refers to these children as "guests". Both were released and the matter was settled before the hearing date. Part of the settlement was that Immigration Officers would be instructed that they could consider the interests of the detained child when determining whether the parent is a flight risk. Previously, Immigration Officer's believed that they could not consider the child's interests. JFCY also assisted in the child's school enrolment and transportation to/from school, and the replacement of the child's OHIP card.

Kanthasamy v Minister of Citizenship and Immigration, Supreme Court of Canada,
2015 SCC 61

JFCY intervened in an appeal where a 17-year old applied for Permanent Residency in Canada based on Humanitarian and Compassionate considerations under the *Immigration Refugee Protection Act*. In its decision, the Supreme Court found that the Best Interests of the Child principle must be front and centre in the decision-making process and that concepts of hardship are presumptively inapplicable to the usual assessment under the hardship test when the applicant is a child because children may experience greater hardship than an adult would in a comparable situation.

Curtis Lewis v The Minister of Public Safety and Emergency Preparedness,
Federal Court of Appeal, *hearing date to be scheduled*

This is an appeal of immigration officials seeking to deport the father of an Aboriginal Canadian child. JFCY's intervention focuses on the Best Interests of the Child principle as being central to the decision-making process. Further, when the child has Aboriginal status, this includes giving due consideration to the government's historical discrimination against Aboriginal people, the long-standing harm caused by the former residential school system, and the current government's commitment to reconciliation.

Toronto Police Services v LD and Steven Mignardi,
Superior Court of Justice, 2016 ONSC 5500; *on appeal to the Ontario Court of Appeal*

JFCY intervened in an appeal where a youth worker at a facility, where LD was detained, filed a complaint against an officer for assaulting LD. The officer then sought access to the entirety of LD's youth record. The youth court judge dismissed the application for disclosure; and on appeal, the Superior Court of Justice overturned this finding and granted disclosure. The Toronto Police Service has appealed and JFCY is seeking leave to intervene.



Policy and Law Reform

JFCY advocates for law and policy reform, and endeavours to respond to current developments and proposed changes to the laws that affect the rights of children and youth. Activities from this past year include:

Participating in the Medical Legal Working Group opposing immigration detention of children.

Consulted on the Office of the Independent Police Review Director's access to Youth Court Records.

Part of the Ministry of the Attorney General's Roundtable on Criminal Justice and on the working group on mental health issues in the criminal justice system.

Presentation on our written publication for the Ontario Human Rights Commission Policy Dialogue on Racial Profiling.

Submissions to the UN Committee on the Rights of the Child regarding the rights of children in migration and submissions regarding the rights of street children.

Member of the Ministry of Child and Youth Service's Youth Justice Advisory Committee.

Submissions to the Federal Standing Committee on Immigration and Citizenship on their review of the Citizenship Act regarding the age requirement for citizenship applications and the treatment of youth criminal justice records.

Consultation on the Family Law Rules Committee's Child Welfare Subcommittee on child representation in family law matters.

Submissions to the Federal Standing Committee on Justice and Legal Affairs regarding the proposed Assisted Dying legislation; JFCY focused on the exclusion of capable and competent minors from the protections and benefits provided in the legislation.

Consulted by the Motherisk Commission of Inquiry regarding their outreach and communication with children and young people who may have been affected by the faulty hair strand drug testing that was done at Sick Kids Hospital.

Consulted at the Federal Government's Marijuana Legalization and Regulation Youth Roundtable.

Consulted with the Ontario Government on the requirements for a Change of Sex Information on an Ontario Birth Registration.

Submissions to Simcoe County Social Services regarding the trustee requirement for young people applying for Ontario Works.

Attended the Champions of Crown Ward Education Success summit with community partners and children's aid societies on how to put better supports in place to assist in the educational success of crown wards.

Attended a focus group hosted by the Criminal Injuries Compensation Board as they consider creating a Provincial Advisory Committee.

JFCY's policy and position papers can be accessed online:

<http://jfcy.org/en/online-resources/policy-position-papers/>



Street Youth Legal Services (SYLS)

JFCY is excited to announce that permanent funding has been secured for SYLS!

We wish to express our deep gratitude to the Law Foundation of Ontario,
our primary funder for SYLS throughout all these years; and
many thanks to our many other funders and generous donors for ensuring
that SYLS has been able to provide continuous services for over 16 years.



Street-involved and homeless youth often have multiple and interconnected legal problems. Complex barriers, including a lack of financial resources, social isolation and mistrust often prevent our clients from getting the help they need.

SYLS delivers legal services directly to street-involved and homeless youth in partnership with all of the street youth serving agencies in Toronto. A lawyer from JFCY meets with youth on-site at the agencies where they congregate to access other services, such as health care, food, employment assistance and counseling. These front-line legal services are provided to reduce the existing barriers to access to justice. Our goal is to educate young people about the value of the law and to empower even our most vulnerable citizens.



SYLS also provides legal education workshops and engages in law reform activities with young people and adults who advocate on behalf of street-involved youth. A selection of these activities includes:



Acting Out! - Street Law Smarts, a Sketch Working Arts and JFCY. The SYLS lawyer and young people with lived experience provide experiential legal information workshops to people whose work connects them with youth experiencing homelessness, e.g. staff at Roger's House, a recently opened safehouse for victims of human trafficking.

Participation on the Advisory Committee for the Sex Trafficking Transitional House with Covenant House.

SYLS has been a long standing member of the Canadian Observatory on Homelessness; and sits on the Advisory Committee. We are involved in a seven-year research project on youth homelessness with three research areas: Frameworks to Prevent Homelessness, Effective Responses to Youth Homelessness, and Justice Issues Affecting Persons Experiencing Homelessness.

SYLS provided support to A Way Home and Canada Without Poverty in the production of *Ending Youth Homelessness: A Human Rights Guide*. Several articles by Prof. Gaetz, who has partnered with SYLS on multiple occasions to conduct research on youth experiencing homelessness, was also referenced in this guide, which is available online: <http://www.homelesshub.ca/sites/default/files/YouthRightsRightNow-final.pdf>





Community Projects and Partnerships

A part of JFCY's vision is to provide a deep offering of sustainable community development. JFCY remains involved in a number of on-going partnerships, engaged in new initiatives and has provided consultation in various sectors.

A selection of this work:

JFCY's Executive Director is the Chair of the Child and Youth Law section of the Ontario Bar Association (2016-2018). The ED also chaired the *Roadmap for Change: The Inquest into the Death of Kaitlin Sampson* program for this section and presented at the OBA Institute on the rights issues young people face in regards to policing and the use of public space.

Member of the Advisory Committee for the Canadian Bar Association's Supporting Access to Justice for Children and Youth in East Africa project. JFCY lawyers also contributed their expertise at the project's overseas training events and conferences.

In another Canadian Bar Association project, JFCY contributed to written materials and the train-the-trainer event in Malaysia for legal professionals in their representation of children and youth.

JFCY is a member of the consultation committee for Ryerson University's Cross-Over Youth Project which seeks to improve outcomes for young people who are involved with the child welfare system and facing charges in the youth criminal justice system. JFCY has provided training for professionals and represented youth referred through the project.

JFCY has partnered with Peacebuilders to create an extrajudicial measures program; this is a 3 year initiative.

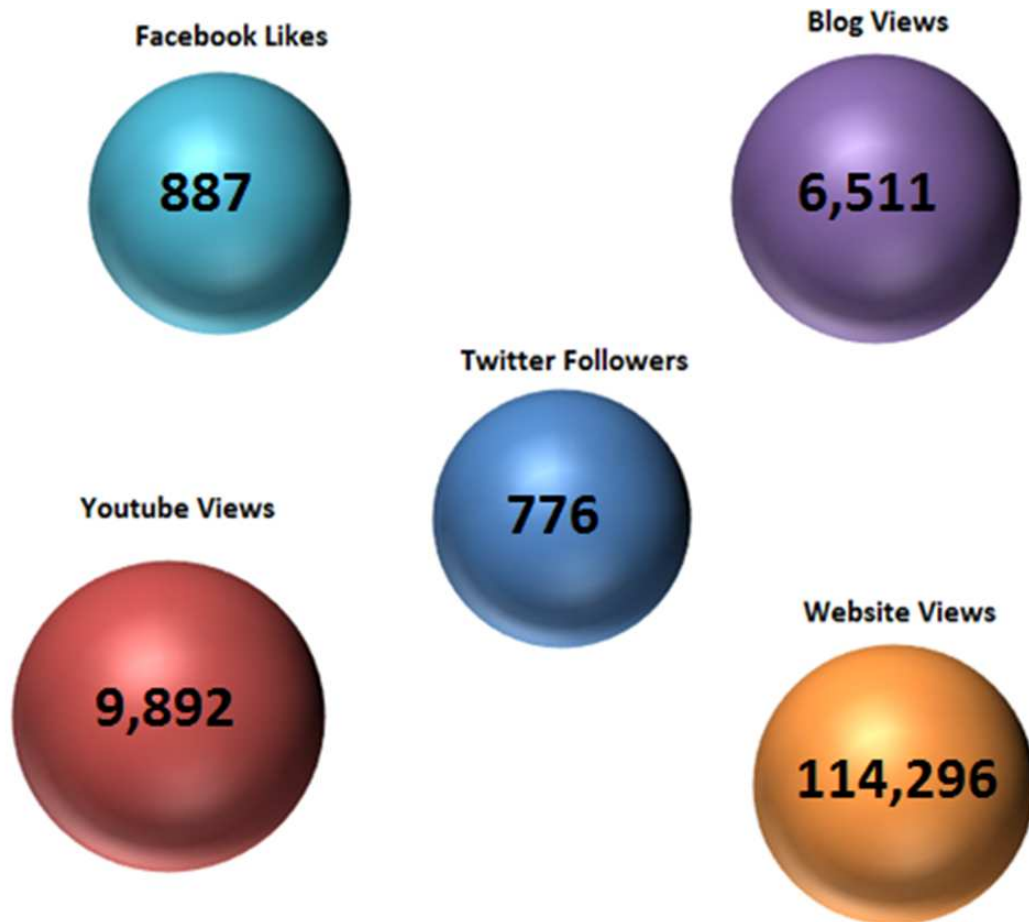
JFCY was on the planning committee for the Canadian Association for the Practical Study of Law in Education conference that was held in Toronto this year. Several JFCY lawyers presented at the conference and an annual achievement award was named after Martha Mackinnon, JFCY's previous Executive Director.

Participated in the annual Think Tank event with the Child Rights Academic Network hosted by the Landon Pearson Resource Centre for the Study of Childhood and Children's Rights.

As a founding member of the Canadian Coalition on the Rights of Children, a JFCY lawyer has been on this board-run registered charity since its inception. JFCY's Executive Director is currently the Treasurer.



Online Presence



Students

JFCY hosts students to provide opportunities for them to learn more about children's rights, to develop skills and to enhance the work of the office. This past year we have had students come to us on secondment from Blake's law firm, on academic placement from Ryerson University's Bachelor of Social Work program, as volunteer law students through Pro Bono Students Canada, through a University of Toronto's Donner Foundation grant, a volunteer Osgoode law student, and a high school student from the Law in Action Within Schools program from the University of Toronto.



Public Legal Education

In conjunction with meeting the legal needs of our clients, JFCY creates and maintains a wide range of public legal education materials and an on-line Legal Wiki. This year, over 11,000 hardcopies of our publications were distributed at various events.

Demand for speaking engagements remains high and JFCY lawyers have delivered over 200 presentations this past year.



Staff Lawyer, Jesse Mark's Hands of Justice icebreaker wows workshop participants every time!

These have included:

Workshops for young people in school assemblies, conferences, classrooms, alternative attendance programs and after-school programs, in community agencies and centres such as Supporting Our Youth. Workshops were also held in northern communities, including the Sioux Lookout and in the Kenora area.

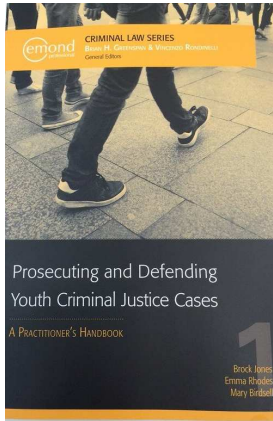
Workshops for post-secondary students and front-line professionals such as principal candidates, guidance counselors, child welfare workers, children's mental health care providers, probation officers, Toronto Police College candidates, youth justice workers and youth employment counselors from various service agencies.

For lawyers and the judiciary through Osgoode's CPD programs, the Law Society of Upper Canada, the Ontario Bar Association and the Canadian Bar Association; at specific programs for Justices of the Peace, Crown Attorney's and Duty Counsel; and to clinic staff in other jurisdictions and at the Toronto and Eastern Region clinic conferences.

For other audiences at specialized events such as the annual International Summer Course on the Rights of the Child at the University of Moncton, the Ontario Residential Care Association's conference, the Foster Parent Society of Ontario's conference and the Sexual Consent Conference.



Research and Writing



Prosecuting and Defending Youth Criminal Justice Cases: A Practitioner's Handbook

Co-authored by Mary Birdsell, JFCY's Executive Director and Emma Rhodes, JFCY Board Member, with Brock Jones, Crown Counsel. Printed by Emond Publishing.

Where no court has gone before: Primacy and centrality of the best interests of the child principle - Case Comment on *Kanthasamy v. Canada*

Co-authored by Emily Chan, JFCY Staff Lawyer, along with Jennie Stone, Staff Lawyer at Neighbourhood Legal Services. Printed by the Canadian Journal of Administrative Law & Practice. See *Test Case Litigation* on page 7.

In the Media

JFCY lawyers receive requests for interviews regarding our cases, background information on the legal landscape for children and youth in Ontario and Canada, and commentary on the relevant issues that impact the rights of our clients. A sample of when we have appeared in TV, radio and in print media:

In the Toronto Star regarding the Truth and Reconciliation Commission's recommendation that the Criminal Code of Canada's defence on corporal punishment of children be removed and the federal government's promise to implement all of the Commission's recommendations: <https://www.thestar.com/news/canada/2015/12/21/liberal-government-commits-to-repealing-spanking-law.html>

On CBC's metro morning show regarding mental health services for children and youth: <http://www.cbc.ca/beta/news/canada/toronto/programs/metromorning/treatment-laws-1.3740998>

In JUST, an OBA publication, on the outcome in *Kanthasamy v Canada* (see *Test Case Litigation* on page 7): https://www.oba.org/JUST/Archives_List/2016/September-2016/Child-Refugee

In a CBC article, *Spanking is never a good idea: child psychologist*: <http://www.cbc.ca/news/canada/newfoundland-labrador/spanking-st-john-studies-criminal-code-lawyer-advocate-1.3752735>



Volunteers


We are ever grateful to our dedicated **Board Members** who make our work possible by bringing a range of skills and a commitment to the advancement of social justice and children's rights.

The **Policy Advisory Panel** members, composed of expert scholars and professionals from a range of disciplines most relevant to our work, volunteer their time to share research, write or review materials, and provide expert advice to the lawyers at JFCY.

The **Development and Fundraising Committee** members work to enhance the clinic's ability raise funds in a variety of ways to support the organization's unfunded and underfunded work.

Members and Donors

Thank you to all our members and individual donors who continue to support JFCY.

A special thank you to  for making us the beneficiary of their Annual Fundraiser this year.



Funders

