

Annual Report 2019



Children's rights are human rights.

Children's rights protect the child as a human being.

Children's rights recognizes the fundamental guarantees to all human beings including equality and the right to dignity through the protection of physical and mental integrity.

Children's rights are specifically adapted to take into account the child's inherent vulnerability, age and maturity.

Children's rights require adults to be duty bearers to safe guard these rights.

Children's rights prioritize the right to be heard, to be active participants in the promotion and protection of their rights and personal agency.

Voice. Empowerment. Justice.



Staff

- Front row: Mary Birdsell, Executive Director
Julia Huys, former Street Youth Legal Services Lawyer
- Back row: Samira Ahmed, Staff Lawyer (left)
Karien Gibson, Office Manager
Emily Chan, Community Development Lawyer
Jane Stewart, Staff Lawyer
Athena Caldarola, Community Development Worker and Law Clerk
Claire Millgate, Street Youth Legal Services Lawyer



Nnenna Obi, Fundraising and Communications Assistant (on left)
Aubrey Abaya, Articling Student (on right)



Andrea Luey,
Staff Lawyer



Allison Williams,
Intake Lawyer



Justice for Children and Youth (JFCY)

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 41st 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.

Board of Directors

Anne Irwin, Chair

Rishma Bhimji, Vice-Chair

Lennox Gibbs, Treasurer

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Tim Welsh

Sapna Goel

Joe Louch

Tamara Nachmani

Debbie Singh



Message from the Chair



2019 has been a challenging year for JFCY. On the downside, Legal Aid Ontario (LAO) cut our funding, along with that of many other legal aid clinics, in response to the provincial government's massive reduction in the corporation's budget. The public campaign to stop the cuts to LAO, which JFCY participated in, had mixed results; it successfully raised public awareness about the importance of Ontario's legal aid clinics, but it was unable to roll back the problematic cut to LAO. The provincial government still has its eye on the legal aid system, with planned modifications on the horizon, so we anticipate further challenges ahead.

On the upside, Board members and staff, underwent a successful strategic planning process, reconfirming ourselves as a dynamic, cost-effective and forward-thinking organization. The process was a positive experience that brought us all together. We were also united in April when LAO awarded our ED, Mary Birdsell, the Sydney B. Linden Award for her longstanding commitment to helping low-income people. We came together again in October, when staff, Board members and supporters participated in the Scotiabank Charity Challenge, raising over \$16,000 for JFCY - a highlight was cheering on our team as they walked or ran the 5K or half marathon.

Throughout the year, staff have continually drawn on their expertise in children's law to assist Ontario's many young people who live in poverty. JFCY's clients typically face conflict within the criminal justice system, the education system, within social services and/or the mental health system. A youth with a criminal justice problem could be having issues at school and mental health problems, so often staff assist clients with multiple and overlapping legal problems. Clinic lawyers must draw on the breadth and depth of their specialized knowledge and skills in order to be of assistance. At JFCY, this know-how expands and deepens over the years, and this is one reason why a specialty legal clinic serving children and youth is so essential. The four pillars of the clinic's mandate - casework, law reform, community development and public legal education - are founded on this unique expertise.

Our Board of Directors underwent significant change this year. Avery Adams moved to the UK, and Emma Rhodes, Norine Nathanson, and Patric Senson resigned for various personal and professional reasons. We thank them all and wish them well. In response, we've brought on four excellent new members: Tamara Nachmani, a Blakes corporate lawyer with work experience at JFCY; Glenn Stuart, a lawyer in sole practice who (among other things) specializes in representing young people; Joe Louch, a criminal defense lawyer with a welcome background in accounting; and Debbie Singh, a human resources professional who is Executive VP at the Canadian Cancer Society. These four new members further our governance objectives and we're thrilled to welcome them onboard.

I would like to thank each of our Board members for their contributions to the clinic; and on behalf of the Board, we thank each of our fabulous staff and students. You make a huge difference in the lives of hundreds of young people each year, and your talent, skill and dedication inspire us all.

Anne Irwin, Chair and President



Message from the Executive Director

2019 has been a year of highs and lows. We continue to be engaged in wonderful work - it is the 30th anniversary of the United Nations *Convention on the Rights of the Child*, and we've seen an ever-increasing interest in and advancement of children's rights, including: a fantastic decision from the Supreme Court of Canada in *R v Le* recognising the significance of looking at the social context and lived realities of young people when analysing *Charter* rights; significant recognition in the legal community of the value of clinic law services, including in submissions by the OBA to Legal Aid's Modernization Project; and the opportunity to work with partner agencies like OJEN and the Winkler Institute on incredible projects like the Indigenous Youth Designing a Better Justice System project, developing the case for voting rights for young people with the Asper Centre, UNICEF, the CCRC and others, and sharing an articling student with Peacebuilders Canada; and the creation of a Child and Youth Law section at the Canadian Bar Association.



Conversely, we have faced terrible events that increase the vulnerability of children in youth in Ontario - the closure of the Ontario Child Advocate's office, cuts to children's services, and brutal provincial budget cuts to legal aid - events that have put incredible strain on our capacity to meet the demand for our services.

We persevere knowing that our services are integral to a child rights respecting justice system, that we make essential contributions to the well-being of individual young people, and to the well-being of our communities and our province. You will see in the pages that follow some examples of the work that we do.

We pursue meaningful, responsive access to justice. We support children's rights in systems that struggle to know how children fit. We assist children and homeless young people, to engage and be heard in the justice system and in society. We help the teenager who has slipped through the cracks - living in a group home or on the streets, faltering at school or not in school, charged with an offence, struggling with mental health issues that are not understood, and being sexually harassed at a part time job or group home - each of these things present legal issues. Finding solutions helps that young person improve her circumstance and opportunities, leave poverty and homelessness behind, find hope, and ultimately to find a place to participate in her community.

We have a multi-faceted approach that makes it possible for us to respond to complex challenges in a variety of ways, and from upstream. We solve problems that arise at a stage that helps us to prevent even greater problems in the future.

As always I offer my deep gratitude for the outstanding work of JFCY staff, students, volunteers, and our committed Board of Directors. All of the people that I work with could commit their energy and intellect elsewhere, but they have chosen JFCY and children's rights, and I am so glad they have.

Mary Birdsell, Executive Director



Casework

The staff lawyers at JFCY provide legal services to children and young people who are struggling to access justice and have their rights respected. This work is done through advocacy, mediation and litigation before various tribunals and all levels of court.

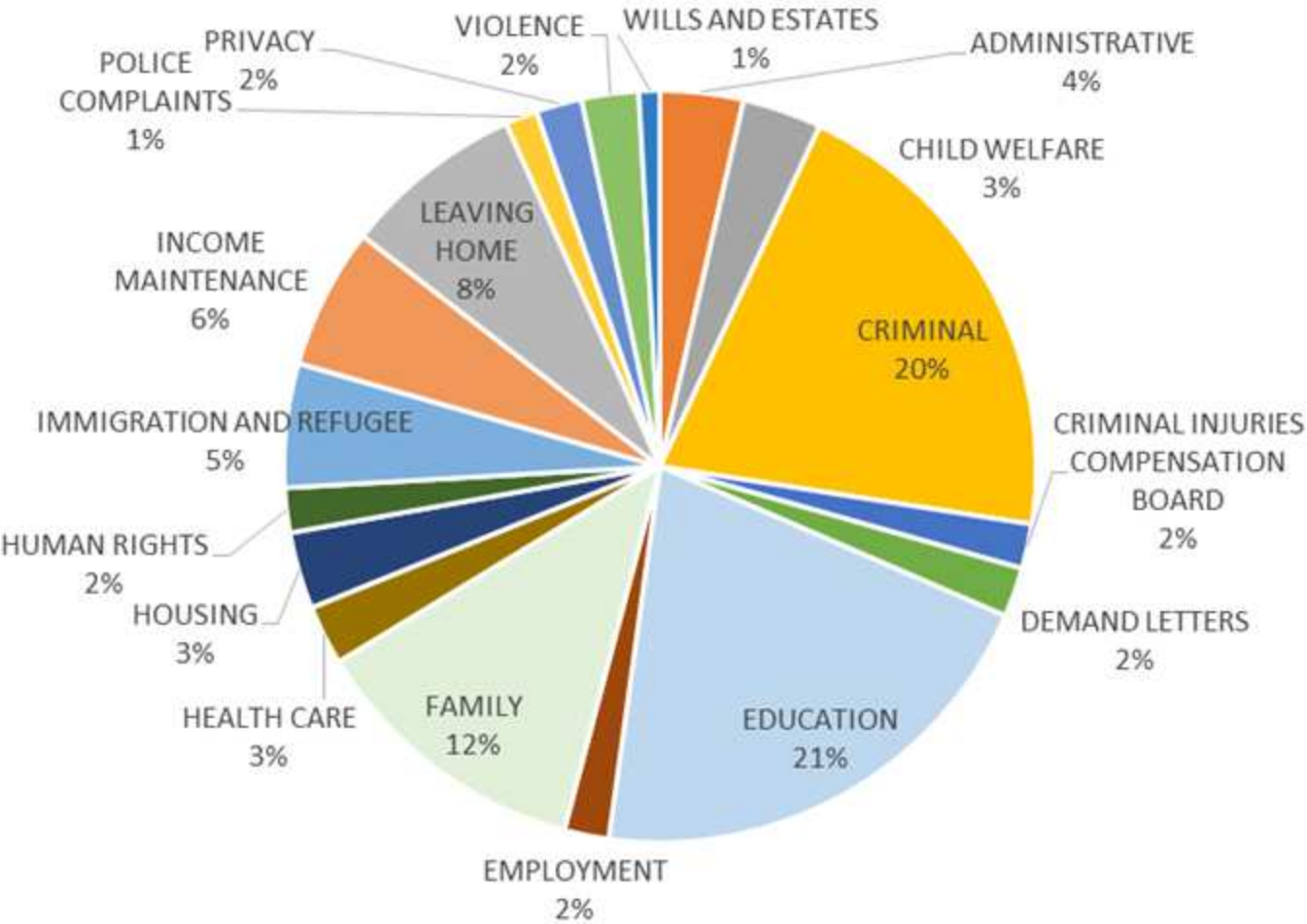
Most of our clients contact us by telephone and we assist callers across the province of Ontario. Many young people are referred to our office by adults supporters, such as teachers, guidance counsellors, and community agency staff. We can not provide full scale representation to everyone who calls, so we triage our most comprehensive service to children facing complex and multiple legal, personal and social issues.

The charts on these two pages illustrate the types of calls that JFCY received this past year.

INTAKES - OCT 2018 to OCT 2019	TOTAL	%
Administrative	67	4%
Child Welfare	64	3%
Criminal	384	20%
Criminal Injuries Compensation Board	36	2%
Demand Letters	40	2%
Education	388	21%
Employment	36	2%
Family	229	12%
Health Care	48	3%
Housing	62	3%
Human Rights	36	2%
Immigration and Refugee	100	5%
Income Maintenance	114	6%
Leaving Home	146	8%
Police Complaints	26	1%
Privacy	37	2%
Violence	46	2%
Will and Estates	17	1%
TOTAL	1876	



Successes this year include: protecting the human rights and privacy rights of young people across a variety of sectors; ensuring school enrolment and disputing unfair discipline in the school system; assisting victims apply to the Criminal Injuries Compensation Board before the board shuts down; advancing the rights of Indigenous children; and providing services for 16 and 17 year olds seeking to enter into or have Voluntary Youth Service Agreements with a children’s aid society. JFCY continues to travel in limited circumstances across the province where the young person has no other access to legal services. JFCY also continues to provide legal services in Truancy Court at 311 Jarvis Court to ensure that the underlying circumstances of young people are heard and addressed appropriately, with the goal of reducing the use of the criminal justice system for school attendance issues.





Test Case Litigation

JFCY's engagement in this work 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 child rights principles, including the *Best Interests of the Child*, as provided for under the United Nations *Convention on the Rights of the Child* and international law. A sample of cases from the past year (our submissions and the decisions are on our website):

ETFO et al v Her Majesty the Queen, Divisional Court, 2019 ONSC 1308

JFCY intervened in a judicial review brought by the Elementary Teachers Federation of Ontario (ETFO) challenging the Ontario government's repeal of the 2015 Health and Physical Education Curriculum and the direction to elementary teachers to teach an older version of the curriculum that omitted content about consent, gender identity and sexual orientation, online behavior and cyberbullying, proper names for body parts, and sexually transmitted infections. JFCY's arguments focused on the right of children to inclusive education that addresses the needs and circumstances of all children, especially LGBTQI2S students, and the requirement to ensure that the best interests of children inform government decision making. While we were disappointed that the Court found that there were no *Charter* violations, the Court did affirm the requirement of schools and teachers to ensure that school environments are inclusive and reflect the diversity of the student population; and that teachers can teach these topics – which empowered ETFO to encourage teachers to do so, thereby supporting a safe environment for LGBTQI2S students, and promoting positive, inclusive environments that are respectful of diversity.

Mayes and JFCY v Minister of Citizenship and Immigration, Federal Court, Docket T-797-18. Order on Consent dated Jan 22, 2019 (posted on JFCY website)

JFCY was the public interest litigant in this case seeking the right of applicants for citizenship to seek an exemption, or reduction of fees, in cases of special and unusual hardship. Mayes, the individual applicant was represented by the Neighbourhood Legal Services clinic - she was raised in the care of an Ontario Children's Aid Society and aged out of care in 1988 without permanent immigration status in Canada. Mayes faced multiple barriers in regularizing her status and it was not until 2016 that she was finally granted permanent residence on humanitarian and compassionate grounds. The Minister refused to consider a fee exemption and refused to process Mayes' citizenship application without the payment of full fees. Mayes and JFCY argued this was in violation of her rights under the *Charter* – Life, Liberty and Security of the person (s.7) and discrimination based on her status (s.15). The parties reached an agreement and received an Order on Consent stating that applicants for citizenship can seek a waiver from the application fees. Mayes received her citizenship in Oct 2019.





R v KJM, Supreme Court of Canada, 2019 SCC 55

JFCY intervened in this appeal, which concerned the interpretation and application of section 11(b) of the *Charter*, the protection against unreasonable delay in bringing matters to trial in the criminal justice system. The Court was asked to consider how the “presumptive ceilings” for delay for adults as established in the previous case of *R v Jordan*, should apply to young people in the youth criminal justice system, given the heightened need for timeliness in youth cases. While the majority found that there was insufficient evidence that the *Jordan* standards cannot appropriately accommodate young people’s needs, the majority and dissenting judgments all affirmed young people’s unique vulnerabilities and right to enhanced protections and adopted many of JFCY’s submissions in this regard.



Amicus role in class action lawsuits

JFCY acted as *amicus curiae* – friend of the court – in three separate class action cases that have been brought against the government of Ontario for unlawful incarcerations. The Ministry of the Attorney General sought JFCY’s expertise to advise the parties and the court to ensure that the privacy rights of young people under in the *Youth Criminal Justice Act* are properly respected. JFCY assisted the parties to draft Orders to the court to be in compliance with the youth justice privacy provisions, while making it possible for the class actions to proceed.

Her Majesty the Queen v RV and Toronto Community Housing Corporation

Superior Court of Justice, Court File No. YC18-00000185-00M0 - *heard Oct 7, 2019, decision pending*

JFCY intervened in a judicial review where the Toronto Community Housing Corporation (TCHC) is seeking the youth records of RV, a young person and TCHC resident, for use in an eviction proceeding against RV and his family under the “illegal act” provisions of the *Residential Tenancies Act*. RV had been charged with an offence on TCHC property. Those charges had been stayed. The youth court denied access to the records, finding that TCHC’s interest in the records did not outweigh the significant impact on RV’s privacy. The judicial review of the youth court’s decision raises significant issues about the protection of young people’s privacy rights under the *Youth Criminal Justice Act* and the proper use of records generated by the youth criminal justice system, given the need to protect young people against stigmatization and to promote their rehabilitation.



Case Development - Voting Rights of Young People

Section 3 of the *Charter* provides that “every citizen of Canada has the right to vote” in federal elections – but the *Canada Elections Act* requires that voters be at least 18 years of age. Currently, the larger political parties in Canada all allow people to be members and vote for party leadership at age 14, and there are jurisdictions around the world that have lowered the voting age to 16, including Scotland, Wales, and Austria.

JFCY has received funding from the Court Challenges Program to work on case development to engage with young people across Canada who are passionate about teenagers having the right to vote. We look forward to working on this important children’s rights issue with the David Asper Centre for Constitutional Rights and several other child rights organizations - see JFCY blog for news release.



JFCY’s Executive Director received the Sidney B. Linden award from Legal Aid Ontario - an award that honours exceptional individuals who have demonstrated a commitment to helping low-income people, and have given their time and expertise towards ensuring access to justice in Ontario.

Law and Policy Reform

JFCY advances and responds to developments and proposed changes to laws that affect the rights of children and youth. Our ability to engage in this work is informed by our case work and youth engagement activities. The lived experience of our clients animates our efforts to ensure that law and policy meaningfully support children’s rights. This year’s activities include:

Ministry of Attorney General consultations on the youth aspects of their justice centres project.
Community Roundtable convened by the Minister of Solicitor General on policing.

Submission to the:

- Ontario government regarding the *Restoring Trust, Transparency and Accountability Act, 2018* which included the elimination of the Ontario Child Advocate’s office.
- Ontario government regarding the changes to the *Ontario Drug Benefit Act* that eliminated drug prescription benefits to some young people.
- Canadian Nuclear Safety Commission’s Terms of Reference - CNSC Potassium Iodide Pill Working Group in support of stocking KI in schools within 50 kms of nuclear generating stations.
- Canada Border Services Agency regarding their consideration of including the child’s best interests in decisions being made on immigration detention.



The SYLS program provides legal services directly to street-involved young people at drop-in centres and shelters – the places where they congregate to access other services, such as health care, food, employment assistance and counseling.



SYLS services include legal education workshops, legal advice and representation at various tribunals and courts, engagement with youth in law reform activities, and policy work.

Street-involved young people often have multiple and interconnected legal problems. Complex systemic barriers, including a lack of financial resources, social isolation, discrimination and mistrust often prevent our clients from getting the help they need. SYLS provides meaningful access to justice by overcoming these barriers.



In addition to providing advice and representation to over 350 young people experiencing homelessness this past year, the SYLS program also engaged in community development and law reform activities, the past year's activities include:

Being on the Board of Directors for A Way Home Toronto and A Way Home Canada.

Continued partnership with Sketch Working Arts on the Transformative Justice Project.

Being on the Advisory Committees for Covenant House on Sex Trafficking and for the Canadian Observatory on Homelessness.

Providing training and support for the Trans ID clinic.

Partnership on the Making the Shift project to prevent and provide housing first interventions to young people.

Working on the Ontario section of the Homeless Youth Handbook with Covenant House and Baker McKenzie.

Published article regarding the SYLS program and the legal needs of youth experiencing homelessness for the Canadian focused edition of Parity, Australia's national homelessness publication.

<https://www.homelesshub.ca/sites/default/files/attachments/Parity-October2019-Vol32-08.pdf>



Public Legal Education (PLE)

In conjunction with meeting the legal needs of our clients, JFCY is involved in organizing events, delivering presentations, and maintaining a wide range of public legal education materials and an on-line Legal Wiki in support of this work. Demand for JFCY lawyers to share their specialized knowledge remains high and some examples of presentations this year includes:

Workshops for young people

In a variety of contexts such as school assemblies and conferences, alternative attendance and after-school programs, in community based agencies such as Pathways to Education Ottawa, for the World Children's Day event hosted by UNICEF Canada, and Blakes' annual Take Your Kids to Work Day, and Ryerson's Trans Youth Symposium.

Training for post-secondary students and front-line professionals

Specialized professional training on ensuring a child rights based approach in practice for professionals who work with young people; for audiences such as principal candidates, guidance counselors, child welfare and housing workers, children's mental health care providers, probation officers, undergraduate and law students and youth justice workers, and youth employment counselors from various service agencies.

For lawyers and adjudicators

Through Osgoode's CPD programs, the Law Society of Upper Canada, the Ontario Bar Association and the Canadian Bar Association; conferences hosted by the Canadian Association for the Practical Study of Law in Education and for the Toronto and Regional Legal Clinic Training; and the 311 Jarvis Court Open Bar Series.

At unique events

Including Annual International Summer Course on the Rights of the Child, Academy of Psychiatry and Law conference, TDSB Envision conference for LGBTQ+ students, OJEN Agent of Landlord sessions, LGBTQI2S Leadership conference, and the Mental Health Law Conference.



Attending *Spring for Peace*,
Peacebuilders' annual fundraising gala



JFCY's team of walkers, runners and supporters at the Scotiabank Toronto Waterfront Marathon Charity Challenge



Online Presence

Twitter Followers

1291

[last year 946]

Facebook Likes

1083

Youtube Views

7,828

[last year 7,656]

Blog Views

26,387

Website Views

250,661

Additional statistics:

- Cannabis blog post and legal wiki content received over 6,500 visits
- Leaving Home legal wiki content received almost 40,000 visits
- Education legal wiki content received over 30,000 visits





Community Involvement and Partnerships

A part of JFCY's vision is to provide a deep offering of sustainable community development. Through the years, JFCY remains involved in a number of on-going partnerships and engages in new initiatives in various sectors. A selection of this work:

Being on the Executive of the Ontario Bar Association's Child and Youth Law section, the Constitutional, Civil Liberties and Human Rights section, and the Education law section; and Board member and treasurer for the Canadian Coalition on the Rights of the Children.

On the Canadian Bar Association's Children's Law Committee, 311 Jarvis Advisory and Community Youth Court Committees, the Provincial Advisory Committee on the Child Cluster at the Social Justice Tribunals Ontario, the Ministry of Child and Youth Services' Youth Justice Advisory Panel, Legal Aid Ontario's Criminal Law Advisory Panel, and the Office of the Children's Lawyer Advisory Group, Steering Committee of Ryerson University's Cross-Over Youth Project, Association of Human Rights Lawyers, Human Services Justice Coordinating Committee.

Restorative Justice in Schools project with Peacebuilders; multi-year initiative funded by Trillium and in collaboration with the Toronto District School Board, Toronto Police Service, and various community members and agencies.



TRANSLating Legal Issues conference series with the Gilbert Centre; funded by the Law Foundation of Ontario.

Indigenous Youth Designing a Better Justice System, phase 2; in partnership with OJEN and the Wrinkler Institute; funded by the Law Foundation of Ontario.

Publication

“Uncovering law’s multiple violences at the inquest into the death of Ashley Smith.”

Citation: Sheldon, C. T., Spector, K. R., & Birdsell, M. (2019). Uncovering law’s multiple violences at the inquest into the death of Ashley Smith. In A. Daley, L. Costa & P. Beresford (Eds.), *Madness, violence and power: a critical collection* (pp. 196–220). Toronto: University of Toronto Press.



Research with Universities

JFCY is currently engaged in a variety of research initiatives:

- *Critical Legal Geography* with Professor Alexandra Flynn, University of British Columbia and University of Ottawa on the laws related to property and homelessness.
- Professor Carla Cesaroni, Ontario Tech University on a pilot project about young people's interactions with police.
- Professor Anthony Doob, University of Toronto on an empirical review of our cases to assist us in developing data collection tools to assist in the ongoing evaluation of our work.

In the Media

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

Explaining the rights of youth under the Youth Criminal Justice Act when questioned in the youth criminal justice setting and the importance of legal representation:

<https://www.cbc.ca/listen/shows/the-current/segment/15642730>

Regarding the “erasure’ of trans identity from the sex-ed curriculum”:

<https://www.thelawyersdaily.ca/other/articles/13205/panel-highlights-erasure-of-trans-identity-from-sex-ed-curriculum-at-pride-month-event>

Speaking about the use of corporal punishment and assault:

<https://globalnews.ca/news/5096786/banning-spanking-children/>

Discussing access to justice, school expulsions, and the criminal justice system:

<https://www.cbc.ca/listen/live-radio/1-100-ottawa-morning/clip/15729351-somali-centre-loses-grant-aimed-at-saving-students-from-expulsion>

Students

JFCY hosts students to provide opportunities to learn about children's rights, develop skills and enhance the work of the office; this has included:

- Joint Articling Student with Peacebuilders Canada
- Law students through Pro Bono Students Canada
- Summer students funded by their law school's public interest grants from Lakehead University, the University of Ottawa and the University of California, Los Angeles
- Law student externship from the University of Windsor
- Academic placements from the social work programs at Ryerson University and the University of Toronto



Staff and students taking a break to watch the Raptors Championship Parade



Supporters and Donors

Thank you to all our members and individual donors who continue to support JFCY; especially those who made generous contributions to our Scotiabank Toronto Waterfront Marathon Charity Challenge this year.

We also wish to thank the law firms of Torys LLP, Baker Mackenzie and Blakes.



Special appreciation to the *Thin Skulls* for bringing the hits of the 80s to JFCY's 40th anniversary event, Nov 2018

Volunteers

We are grateful to our dedicated **Board Members** who make our work possible by bringing a range of skills and 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 to raise funds in a variety of ways to support the organization's unfunded and underfunded work.

Funders

Legal Aid Ontario

City of Toronto's Investing in Neighbourhoods

Canada Summer Jobs

