



## **Brief to the Standing Senate Committee on Human Rights Study on Aging out Foster Care November 27, 2024**

### **Introduction**

The Saskatchewan Advocate for Children and Youth is an independent office of the Legislative Assembly of Saskatchewan. As the Saskatchewan Advocate, my mandate is to advocate on behalf of children and youth within provincial public services, investigate issues related to public services to children, raise public awareness of the rights, interests and well-being of children in Saskatchewan, and provide advice or make recommendations to the provincial government to improve services to young people. I am also the current President of the Canadian Council of Child and Youth Advocates (CCCYA), which is an association of independent, appointed children's Advocates, Representatives, and Ombudsman across the provinces and territories. CCCYA members work together to identify areas of mutual concern and address national issues. The work of my office, and that of my counterparts across Canada, is grounded in the United Nations Convention on the Rights of the Child.<sup>1</sup>

I appeared before the Standing Senate Committee on Human Rights as a witness in its study on Aging Out of Foster Care on November 4, 2024, in my capacity as both the Saskatchewan Advocate and the CCCYA President. The comments and recommendations in this written submission are offered as the Advocate for Children and Youth in Saskatchewan only, but are informed by knowledge gained at the CCCYA table. I appreciate the opportunity to contribute to this important study.

### **Background Context**

It is well known that better support and early intervention for families is required in order to prevent children from coming into government care. Systemically, we need to rethink and reimagine what the system could look like to better support young people from beginning to end – not just on their way out the door. However, as this study focuses on the transition from care to independence, this submission will focus on this objective.

Often, although not always, children come into care as a result of trauma, adverse childhood experiences and inequities related to the social determinants of health – the negative and enduring impacts of which are well-known.<sup>2</sup> Indigenous children, who make up a

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<sup>1</sup> United Nations General Assembly. (1989). Convention on the Rights of the Child. (Retrieved from: <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>)

<sup>2</sup> Raphael, D., Bryant, T., Mikkonen, J. and Raphael, A. (2020). *Social Determinants of Health: The Canadian Facts*. Oshawa: Ontario Tech University Faculty of Health Sciences and Toronto:



disproportionate number of the children and youth in care, face additional disadvantages resulting from past colonial practices and residential school policies.

Some children find stable placements with extended family or other committed caregivers, a sense of permanency and belonging, and the support they need to grow and thrive while in care and beyond. This is the overall purpose of the child welfare system.

However, many children who grow up in care are not this fortunate. In addition to the adverse experiences that brought them into care in the first place, many young people face significant instability during their time in the child welfare system.

Children and youth can experience frequent turnover in caseworkers, which can affect communication and planning for their needs. Young people often also experience multiple moves while in care. Placements can break down for many reasons. We often see this being due to caregivers being overloaded, or not being properly supported to meet the needs of the young person – no matter how committed or well-meaning the caregiver may be.

We note that the topic of this study is stated to be “Aging Out of Foster Care”. However, we urge the Standing Senate Committee to ensure its study also considers youth transitioning from other types of care. Foster care is becoming one of the lesser used forms of care in Canada as child welfare systems both strive to keep children with extended family, and struggle to recruit and retain foster parents. At September 30, 2024, only 16% of children and youth in care in Saskatchewan were in foster care placements. Conversely, 57% were in various forms of extended family placements, 16% were residing in group homes and 11% were in other types of care, such as inpatient addiction treatment facilities.<sup>3</sup> If a child must be removed from their home, placement with extended family is, of course, preferable. We emphasize, however, that even young people in extended family care can face challenges and vulnerabilities during and when aging out of care, as family caregivers in Saskatchewan are not provided with the same level of training as foster parents. Children who have been traumatized to the extent that they must be removed from their home require special care and assistance. Extended family caregivers must be adequately supported to meet their needs, and the State must ensure it continues to support those young people as they reach the age of majority and beyond. Moreover, youth in group care face the instability of different staff coming in and out of their homes. These youth also often transition to independence earlier. In Saskatchewan, this is, in part, because the province is lacking sufficient resources that accept older youth (i.e. 16- and 17-year olds).

Despite the best intentions of the child welfare system, challenges faced by young people in all types of care are often not adequately addressed – and sometimes even exacerbated while in care. These challenges can include histories of trauma, the additional trauma of being removed from

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York University School of Health Policy and Management. (Retrieved from: [https://thecanadianfacts.org/The\\_Canadian\\_Facts-2nd\\_ed.pdf](https://thecanadianfacts.org/The_Canadian_Facts-2nd_ed.pdf))

Crawford, A. & Hicks, J. (2018). “Early Childhood Adversity as a Key Mechanism by Which Colonialism is Mediated into Suicidal Behaviour”, *Journal of Northern Public Affairs*. 65, no.3

<sup>3</sup> Government of Saskatchewan. (2024). *Child Welfare Statistics*. (Retrieved from: <https://www.saskatchewan.ca/residents/family-and-social-support/putting-children-first>)

home, struggles related to mental health, and substance misuse that can arise through attempts to cope. Tragically, some children and youth even face further neglect or abuse while in care, despite being in a system intended to protect them from it.

While the focus of this study is on the period of time during which a young person is transitioning from government care to independence, or “aging out of care”, the above context is crucial to understanding the particular vulnerabilities youth face during this tumultuous time. As a result of these circumstances, care-experienced youth may require even more support as they prepare for adulthood than their non-care-experienced peers.

### **Vulnerabilities and Challenges of Youth Aging Out of Care**

Through the course of its study, the Standing Senate Committee has already heard significant evidence on the challenges and vulnerabilities faced by young people transitioning from care. This evidence is reflective of what my office sees in Saskatchewan, and what members of the CCCYA are seeing nationally. Several CCCYA member offices have released public reports on this issue identifying challenges in this area and putting forward solutions to their provincial governments. I am encouraged that the Standing Senate Committee is hearing directly from several of my colleagues in its study. I encourage the Standing Senate Committee to also refer to their reports, footnoted below, for additional detail in this regard.<sup>4</sup> CCCYA members have also reviewed the report of Dr. Melanie Doucet and the National Council of Youth in Care Advocates entitled, *A Long Road Paved With Solutions: ‘Aging out’ of care reports in Canada – Key*

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<sup>4</sup> Office of the Child and Youth Advocate Alberta. (2019). *A Critical Time: A special report on emerging adults leaving children’s services care*. Author: Edmonton, AB (Retrieved from: [https://www.ocya.alberta.ca/wp-content/uploads/2014/08/SpRpt2019November\\_A-Critical-Time.pdf](https://www.ocya.alberta.ca/wp-content/uploads/2014/08/SpRpt2019November_A-Critical-Time.pdf))

Office of the Child and Youth Advocate Alberta. (2013). “*Where Do We Go From Here?*” – *Youth aging out of care special report*. Author: Edmonton, AB (Retrieved from: [https://www.ocya.alberta.ca/wp-content/uploads/2014/08/SpRpt-2013Apr10\\_Youth-Aging-out-of-Care.pdf](https://www.ocya.alberta.ca/wp-content/uploads/2014/08/SpRpt-2013Apr10_Youth-Aging-out-of-Care.pdf))

Office of the Child and Youth Advocate Alberta. (2013). *Youth Aging Out of Care Symposium Report*. Author: Edmonton, AB. (Retrieved from: [https://www.ocya.alberta.ca/wp-content/uploads/2016/11/SpRpt\\_2013Apr10\\_Youth-Aging\\_Symposium\\_Report.pdf](https://www.ocya.alberta.ca/wp-content/uploads/2016/11/SpRpt_2013Apr10_Youth-Aging_Symposium_Report.pdf))

British Columbia Representative for Children and Youth. (2020). *A Parent’s Duty: Government’s Obligation to Youth Transitioning into Adulthood*. Author: Victoria, BC (Retrieved from: [https://rcybc.ca/wp-content/uploads/2020/12/RCY-A-Parents-Duty\\_FINAL.pdf](https://rcybc.ca/wp-content/uploads/2020/12/RCY-A-Parents-Duty_FINAL.pdf))

British Columbia Representative for Children and Youth. (18 March 2022). *Representative’s Statement on the Improvements to Transition Supports for Youth Aging Out of Care*. Author: Victoria, BC. (Retrieved from: <https://rcybc.ca/wp-content/uploads/2022/03/Representatives-Statement-March-18-2022.pdf>)

New Brunswick Child and Youth Advocate. (2022). *Through Their Eyes: The Lives of Children and Youth Living in the Care of the Province*. Author: Fredericton, NB (Retrieved from: <https://static1.squarespace.com/static/60340d12be1db058065cdc10/t/62a095266cb8a9471290a892/1654691116694/Through+Their+Eyes.pdf>)

Kovarikova, J. (2017). *Exploring Youth Outcomes After Aging-Out of Care*. Ontario Provincial Advocate for Children and Youth: Ottawa, ON. (Retrieved from: <https://ocaarchives.wordpress.com/wp-content/uploads/2019/01/report-exploring-youth-outcomes.pdf>)

Yukon Child and Youth Advocate Office. (2019). *2018/2019 Annual Report*. Author: Whitehorse, YT. pg. 15. (Retrieved from: <https://www.docdroid.net/ESNzFZ6/ycao-2018-19-ar-eng-07-fnl-pdf>)

Yukon Child and Youth Advocate Office. (2019). *Empty Spaces, Caring Connections: The Experiences of Children and Youth in Yukon Group Care*. Author: Whitehorse, YT. (Retrieved from: <https://www.docdroid.net/d48O4G4/190509ycao-2019-sr-eng-06-fnl-may-08-pdf>)

*recommendations and timelines (1987-2020)*. The vulnerabilities this population continues to face as described within that report are reflective of those identified by the CCCYA, and the CCCYA is supportive of the overarching recommendations put forward.

In addition to this rich, existing data, on behalf of the CCCYA, our office led a national youth submission to the to the United Nations Committee on the Rights of the Child and its 2021 Day of General Discussion on the Rights of Children in Alternative Care (2021 DGD). That submission is also footnoted below for ease of reference.<sup>5</sup> In Saskatchewan, my office heard from care-experienced young people about the challenges of transitioning to independence and the resulting negative impact on their well-being, through our research on Saskatchewan’s child and youth mental health and addictions systems. That data is presented in our 2022 report entitled, *Desperately Waiting*, and is footnoted here for reference.<sup>6</sup>

Through these processes, and through our regular advocacy and investigative functions, we heard from youth that they are not adequately prepared for the transition to adulthood or for how to independently meet their needs. These include needs related to the basic skills of daily living, transportation, education, employment, housing, money management, community resources, sexual and mental health, and parenting. We have also heard from youth who were only weeks away from their 18<sup>th</sup> birthday and did not know what the plan was for them after that time. This uncertainty causes significant stress and fear. Consequently, most youth in care approaching adulthood are not pre-equipped with the skillset or connections required to live independently while – simultaneously – trying to address the burdens they often still carry from their childhood.

Accordingly, young people told us that the process of transitioning to independence needed to begin earlier, last longer and be better supported by social workers with available time to spend with them in order to provide necessary guidance to reduce the stress caused by uncertainties around their future. If young people are better supported during their time in care, they will be better prepared for the transition to independence.

With respect to transitional support (or supports provided after aging out of care), the Standing Senate Committee has heard that many provinces and territories offer some youth post-majority services, but that these are often tied to conditions such as attending school or gaining employment skills. However, as the Committee has also already heard, not all young people who have been in care are ready to take those steps at age 18 – especially those that have faced trauma and who may have lived through significant instability within the child welfare system.

Furthermore, in many jurisdictions, the post-majority supports that are provided do not last long enough. For instance, in Saskatchewan, most individuals in provincial government care are only eligible for extended support until the age of 21. This is well below several other provinces.

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<sup>5</sup> Canadian Council of Child and Youth Advocates. (2021). *Youth Consultation - United Nations Committee on the Rights of the Child Day of General Discussion – Alternative Care*. Author: Saskatoon, SK. (Retrieved from: <https://www.ohchr.org/sites/default/files/documents/hrbodies/crc/discussions/2021/submissions/subm-2021-day-general-ngos-ngo-coal-canadian-council-child-youth-advo-youth-submission.pdf>)

<sup>6</sup> Saskatchewan Advocate for Children and Youth. (2022). *Desperately Waiting*. Author: Saskatoon, SK. (Retrieved from: <https://www.saskadvocate.ca/assets/desperately-waiting-special-report-march-2022.pdf>)



Many young people from care are not even ready to take the steps described above at 21 years old. If they have not completed high school by age 21, they miss out on the opportunity of receiving support for post-secondary education.

Additionally, not all youth in care are eligible for extended support. In Saskatchewan, youth in provincial care are only eligible for extended support if they are long-term or permanent wards. Youth in temporary or voluntary care, or those in the custody of a ‘person of sufficient interest’, are not eligible for extended support services, despite the fact that they have likely been through similar traumas, may also lack family connection, and often require continued support to thrive. Recent amendments to *The Child and Family Services Act* in Saskatchewan have allowed support for Temporary Wards to continue to the end of the school year in which they turn 18, to avoid disruption to their secondary education. However, this does not go far enough.

Federal post-majority support services are available to First Nations youth whose files are managed by a delegated First Nations Child and Family Services Agency – no matter what type of care they are in, and are accessible up to the age of 26. This increased flexibility is positive. However, these benefits are not accessible to all young people and even many Indigenous youth in Saskatchewan do not meet the eligibility requirements for federal post-majority supports (i.e. those in care of the province and not ordinarily resident on reserve).<sup>7</sup> The Committee has also heard concerns regarding the sustainability of federal post-majority supports.

Among those youth that *do receive* extended provincial support in Saskatchewan, we have heard from many who said they were provided with financial support to continue their education, but little in the way of continued personal support and guidance. As one youth participant to the 2021 DGD put it, “*a lot of times we’re just, kind of, thrown out there and just expected to understand what it’s like to be an adult when we were just a kid, like, a month ago.*”

In addition to better guidance in the basic skills of daily living while still in care, youth participants in the 2021 DGD identified the need for more in-depth and sustained follow-up support by caseworkers after leaving care than what is currently provided. For instance, in Saskatchewan, there are no required standards for caseworker contact with youth in receipt of provincial extended support services. Youth told us that it can take time to sort out all the responsibilities of independent living and that unexpected challenges can come up along the way. As one youth stated, “*as an adult, we need that support the most, because life is so jarring sometimes.*” Youth leaving care also told us they need more support with “*managing loneliness*”, stating, “*[w]hen you’re living alone, no one really tells you how to manage being alone.*”

It is, therefore, crucial that a network of positive relationships is established before young people leave care. This network ought to include aftercare caseworkers, community service providers and other care-experienced youth.

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<sup>7</sup> Government of Canada. (2022). *Post-majority support services for First Nations youth and young adults*. Author: Ottawa, ON. (Retrieved from: <https://www.sac-isc.gc.ca/eng/1650377737799/1650377806807>)





The consequences of not having this support are significant. A question was raised to one of the witness panels during this study regarding the number of young people between the ages of 18 and 22 who died while in receipt of transitional services. My office is notified of all deaths of young people in Saskatchewan who were in receipt of child welfare services at the time of their passing, or in the previous twelve months. I can advise that, in Saskatchewan, between 2019 and October 31, 2024, my office was notified of 11 deaths of individuals who were either receiving extended support services, had their extended support services discontinued within the year, or had aged out of care within the year without access to post-majority services. Six of these young people died by suicide, two by accidental overdose and one by homicide while in a vulnerable state due to the influence of substances. During this same period, my office was notified of another five young people that attempted suicide while in receipt of extended support services in Saskatchewan. It must be noted, however, that my office is not notified of all attempted suicides among this population, and therefore this number is an underrepresentation of actual incidents.

These tragic losses, and near losses, may be reflective of a group of young people struggling to find the support they need in a precarious and uncertain time of transition and change. Of course, we recognize that some youth will find their way with what little supports and resources are available, however, this is not the norm.

### **Current Landscape of Provincial Policy and Practice**

Child welfare policies recognize, to some extent, the needs of youth in care for support with transitioning to independence – and the onus on government to provide it. For instance, Saskatchewan policy requires that youth in care be provided with “assistance in preparing for independence by being given the necessary training, guidance, and support to take responsibility for most aspects of his or her life, according to his or her capabilities, upon reaching the age of majority.” The policy manual provides a helpful list of areas to cover with youth approaching independence. Furthermore, it recognizes that, “[c]hildren and youth in care need additional training and support because they are more likely to leave the home of caregivers at an earlier age and may be without the benefit of a network of family support.”<sup>8</sup> Policy further acknowledges that most families continue to provide some additional support to their children after age 18, and that – as the parent – the Minister has the same responsibility. These words of acknowledgements are positive.

However, as highlighted earlier, the reality of practice does not always meet the requirements of policy.

Across Canada, my colleagues in the CCCYA and I see that child welfare systems are challenged with recruitment and retention of experienced staff – particularly in rural, northern, and remote communities. Under-resourcing results in high caseloads, often jeopardizing the ability of even the best-intentioned and most capable caseworkers to dedicate the time required to provide youth approaching independence with appropriate training and guidance. It also impacts the system’s

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<sup>8</sup> Saskatchewan Ministry of Social Services. (July 2024). “Section 3.8: Preparing Youth for Independence,” *Children’s Services Manual. Government of Saskatchewan*: Regina, SK. (Retrieved from: <https://publications.saskatchewan.ca/#/products/11522>)

capacity to ensure caseworkers themselves are properly supported and supervised in this work. Youth indicate that when caseworkers do not have time to spend developing relationships with them, they do not feel comfortable sharing their views and needs. Caseloads must be kept manageable so that youth consultation and relationship-building can occur at every step of the child protection process.

Deficiencies in system capacity also impact the level of support provided to young adults receiving extended support services. As indicated above, there are no required contact standards for young people in receipt of extended support services – at least in Saskatchewan. Even though case workers may try their hardest to connect with these young people alongside their other work, when a task is not mandated, it is often one of the first to fall to the wayside.

### **Rights of Youth Aging out of Care and the Corresponding Role of the Federal Government**

Despite the area of child protection falling under provincial jurisdiction, the federal government does have a role to play in addressing and remediating the vulnerabilities and challenges faced by young people aging out of government care.

Canada is a State Party to the United Nations Convention on the Rights of the Child (UNCRC). Upon ratification of the UNCRC in 1991, Canada agreed to be legally bound to it within the sphere of international law and is ultimately responsible to the international community for its implementation. Although Canada's particular form of federalism can pose a challenge for the implementation of international treaties when they touch on matters of provincial jurisdiction, this does not absolve Canada from its obligations to children and young people. Article 27 of the *Vienna Convention on the Law of Treaties* states that “[a] party may not invoke the provisions of its internal law as justification for its failure to perform a treaty.”<sup>9</sup> Accordingly, there is an onus on the federal government to “undertake all appropriate legislative, administrative and other measures” to collaborate with other levels of government to ensure its obligations to children – in all areas – are met.<sup>10</sup>

Provincial and territorial governments also have a responsibility to respect, protect and fulfill the rights of young people under the UNCRC. The federal government has a policy of consulting with provinces before ratification when provincial jurisdiction is implicated.<sup>11</sup> When Canada ratified the UNCRC, it did so with the support of all provinces.<sup>12</sup> Furthermore, the UNCRC is the most widely accepted international human rights treaty in history, being ratified by all but one member State. Even in the absence of the existing provincial support, the near universal and

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<sup>9</sup> United Nations. (1966). *Vienna Convention on the Law of Treaties*. Treaty Series, vol. 1155, May 1969, p. 331 (Retrieved from: [https://legal.un.org/ilc/texts/instruments/english/conventions/1\\_1\\_1969.pdf](https://legal.un.org/ilc/texts/instruments/english/conventions/1_1_1969.pdf))

<sup>10</sup> UNCRC Article 4

<sup>11</sup> Barnett, L. (2018). *Canada's Approach to the Treaty-Making Process (Background Paper)*, Library of Parliament, Ottawa, Canada, Publication No. 2008-45-E (Retrieved from: [https://lop.parl.ca/sites/PublicWebsite/default/en\\_CA/ResearchPublications/200845E](https://lop.parl.ca/sites/PublicWebsite/default/en_CA/ResearchPublications/200845E))

<sup>12</sup> Standing Senate Committee on Human Rights. (2005). *Interim Report - Who's In Charge Here? Effective Implementation of Canada's International Obligations with Respect to the Rights of Children*. Author: Ottawa, ON (Retrieved from: [https://publications.gc.ca/collections/collection\\_2011/sen/yc32-0/YC32-0-381-19-eng.pdf](https://publications.gc.ca/collections/collection_2011/sen/yc32-0/YC32-0-381-19-eng.pdf)). p. 34.

global acceptance of the principles and obligations put forward in the UNCRC would make it very difficult for any level of government to deny its applicability within their areas of jurisdiction.

Therefore, all levels of government in Canada have a shared legal and/or moral obligation to collaborate in order to protect, respect and fulfill the rights of children codified in the UNCRC.

Notably in regard to aging out of government care, the preamble of the UNCRC indicates it was developed on the foundation that “**the child should be fully prepared to live an individual life in society.**” To realize this goal, the UNCRC codifies the rights of children to have their best interests be a primary consideration and to have their voices heard in all matters that affect them, to develop to their maximum potential, and to have their spectrum of rights be realized without discrimination.

Although this study is aimed at the process of aging out of government care and, therefore, captures the interests and well-being of individuals aged 18 and over, as called for by youth above, support for transitioning to independence must begin well before an individual turns 18, and requires fulfillment of their rights *while in care*.

Additionally, obligations on the federal government under the UNCRC are not the only ones applicable to this issue. Young people retain their human rights after their 18<sup>th</sup> birthday. For instance, all individuals have the right to an adequate standard of living, the highest attainable standard of physical and mental health, and equal accessibility to higher education under the International Covenant on Economic, Social and Cultural Rights (ICESCR), which has also been ratified by Canada.<sup>13</sup> Additionally, the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and Canada’s UNDRIP Act guarantee special measures for Indigenous people to ensure the improvement of their economic and social conditions, including in the areas of education, employment, training, housing, health and social security. These are all areas in which young people transitioning from care – and Indigenous young people in particular – require additional support than what they are currently receiving.

Canada has found a constitutional path to commit to its obligations under UNDRIP, so it ought to be able to do the same for the UNCRC and the ICESCR – treaties to which it is legally bound.

The Committee has heard from previous witnesses that national standards are needed to ensure all youth have access to the same level of service no matter where in Canada they live. These are important to ameliorate the patchwork of approaches in use across the country as described by other witnesses, provided they respect jurisdictional boundaries. However, in order for those enhanced national standards to be adhered to, the systems responsible must have enough human resources to do this important work. They must also ensure staff are properly trained and provided with adequate supervision and support.

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<sup>13</sup> United Nations General Assembly. (1966). International Covenant on Economic, Social and Cultural Rights. Geneva, CH: United Nations. (Retrieved from: <https://www.ohchr.org/sites/default/files/cescr.pdf>)



As referenced earlier, child welfare systems across the country are fraught with staff turnover and vacancies, often resulting from burnout. In some jurisdictions, there are not enough positions afforded to the child welfare system to allow case workers the time to effectively engage with young people. In others, positions remain vacant as government ministries struggle to find qualified people to fill them.

Child protection is a difficult job that becomes even more difficult when individuals are faced with unreasonable caseload demands and lack the appropriate training and tools to provide meaningful support to their clients. In the face of these obstacles, combined with compensation rates that are not always commensurate to the work performed or geographic location, recruitment and retention to this field is challenging.

Caseworkers are already struggling to meet existing policy standards. If additional expectations are put on the workers in these systems by establishing national standards and expanding services in jurisdictions where they are lacking, more would be needed to ensure the systems have the capacity to support them in this work. A well-trained, qualified, and supported workforce in child welfare is integral to achieving positive outcomes for young people aging out of care.

This would invoke UNCRC Article 3(3), which requires Canada to:

[...] ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.

Accordingly, further to its obligations to collaborate with provinces and territories to fulfill its human rights obligations, the federal government could have a role in assisting provincial and territorial child welfare systems to secure an adequate number of trained staff in order to adequately prepare young people in, and leaving, care for an independent life. This could involve agreements for shared funding to social services targeted at increasing the number of positions, thereby making caseloads manageable and allowing for adequate supervision. It could also involve agreements with education for shared funding targeted at enticing people to enter the social work field to fill existing vacancies.

Such an approach has already been considered by this Standing Committee. In its 2005 Interim Report, *Who's in Charge Here? Effective Implementation of Canada's International Obligations with Respect to The Rights of Children*, the Committee stated:

Having signed the treaty and by extension, created an expectation for the provinces and territories to abide by the treaty through their legislation and policies, witnesses emphasized that the federal government cannot walk away, just as it cannot place the blame for lack of compliance on jurisdictional issues. **The Committee strongly suggests that the federal government establish a mechanism to help fund and provide**

**resources to the provinces and territories, so as to facilitate their capacity to comply with Canada's international obligations [emphasis in original].<sup>14</sup>**

Efforts in this regard could be similar to the targeted funding provided through the bilateral agreements to provinces and territories to improve healthcare services.<sup>15</sup> This funding is conditional on its use within shared health priority areas, without displacing existing planned spending in those areas. Such an arrangement would not impact the autonomy of provinces as they could determine for themselves whether they wished to accept the funding on the condition that it be used or targeted for the purpose of implementing both existing and any newly developed national standards for supporting youth aging out of care.

To facilitate coordination of national standards and shared funding, the Committee also could recommend to Canada that it bring parties together for discussion, such as it did in 2018, when it hosted an emergency national meeting on Indigenous child and family services. Such a discussion could include federal, provincial and territorial governments, First Nations, Inuit and Métis leaders, Elders, youth, community service organizations, academics and CCCYA members. That meeting catalyzed tangible change in the area of child welfare. It could be done again.

Notably, I wish to emphasize here that some of the other ways previous witnesses have suggested the federal government may have a role in this area are also supported by the international child rights framework. These include the establishment of a national database and a National Commissioner for Children and Youth. We would add the development of a National Strategy for the implementation of children's rights to this list. The United Nations Committee on the Rights of the Child identified these as essential elements to realizing the rights under the UNCRC in its *General Comment No. 5 (2003) General measures of implementation of the Convention on the Rights of the Child*.<sup>16</sup> Moreover, through its four sets of Concluding Observations to Canada, the UN Committee on the Rights of the Child has repeatedly recommended Canada take these steps.<sup>17</sup>

Regarding data collection, it has been raised to the Standing Senate Committee that, because the provinces and territories are not required to report data to the federal government, there is no comprehensive overview of what is working (or not working) from region to region. As the

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<sup>14</sup> Standing Senate Committee on Human Rights. (2005). *Interim Report - Who's In Charge Here? Effective Implementation of Canada's International Obligations with Respect to the Rights of Children*. Author: Ottawa, ON (Retrieved from: [https://publications.gc.ca/collections/collection\\_2011/sen/yc32-0/YC32-0-381-19-eng.pdf](https://publications.gc.ca/collections/collection_2011/sen/yc32-0/YC32-0-381-19-eng.pdf)). p. 77.

<sup>15</sup> Government of Canada. (2024). *Canada-Saskatchewan agreement to Work Together to Improve Health Care for Canadians (2023-24 to 2025-36)*. Author: Ottawa, ON (Retrieved from: <https://www.canada.ca/en/health-canada/corporate/transparency/health-agreements/shared-health-priorities/working-together-bilateral-agreements/saskatchewan-improve-care.html>)

<sup>16</sup> Committee on the Rights of the Child. (2003). *General Comment No. 5 (2003) General measures of implementation of the Convention on the Rights of the Child*. Geneva, CH: United Nations. CRC/GC/2003/5. (Retrieved from: <https://www.refworld.org/docid/4538834f11.html>)

<sup>17</sup> Most recent: Committee on the Rights of the Child. (2022). *Concluding observations on the combined fifth and sixth periodic reports of Canada*. United Nations: Geneva, CH CRC/C/CAN/CO/5-6. (Retrieved from: <https://documents.un.org/doc/undoc/gen/g22/388/12/pdf/g2238812.pdf>)



federal government has an obligation under the UN Convention on the Rights of the Child to ensure young people are “fully prepared to live an individual life in society,” Canada is beholden to gather this data in order to better understand the realities and outcomes of young people leaving care.

On this matter, the Committee on the Rights of the Child has repeatedly recommended that Canada improve its collection of disaggregated data in order to allow for comprehensive, nationwide monitoring of the rights of children, the analysis of the circumstances of young people (especially those in situations of vulnerability), and the effectiveness of programs put in place to support them. Obligations to report this data could be tied to shared, targeted funding agreements. The Standing Senate Committee has asked other witnesses what data points should be collected. In this regard, the Office of the High Commissioner for Human Rights’ document entitled, *Human rights indicators: a guide to measurement and implementation*, may be helpful in the development of such a database.<sup>18</sup>

Additionally, prior to its dissolution, the Ontario Advocate for Children and Youth released a report, titled *Exploring Youth Outcomes After Aging-Out of Care*.<sup>19</sup> Specific outcomes examined in that work included (but may not be limited to) academic achievement, employment status, homelessness and housing security, criminal justice system involvement, early parenthood, physical and mental health, and loneliness.

We would add that rates of death and critical injury among individuals who have aged out of care would offer an important perspective on the realities of this population.

Data points related to the time a child is in care would also be an important measurement of how involvement with the child welfare system can impact outcomes later in life. These include, but should not be limited to placement type, number of moves, separation from siblings, access to biological and extended family, physical and mental health, access to culture and language, academic achievement while in care, extracurricular and employment opportunities, and loneliness.

We would also urge that young people about to age out of, and having recently transitioned from, care should be involved in the development of a national database system, as well as any analysis, evaluation and quality assurance processes built into its utilization.

The Standing Senate Committee has also heard throughout this study that Canada should legislate protections around the transition to adulthood. In this regard, the Committee on the Rights of the Child has recommended that Canada both develop a comprehensive law on

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<sup>18</sup> Office of the High Commissioner of Human Rights. (2012). *Human Rights Indicators: A guide to measurement and implementation*. United Nations: Geneva, CH. (Retrieved from: [https://www.ohchr.org/sites/default/files/Documents/Publications/Human\\_rights\\_indicators\\_en.pdf](https://www.ohchr.org/sites/default/files/Documents/Publications/Human_rights_indicators_en.pdf))

<sup>19</sup> Kovarikova, J. (2017). *Exploring Youth Outcomes After Aging-Out of Care*. Ontario Provincial Advocate for Children and Youth: Ottawa, ON. (Retrieved from: <https://ocaarchives.wordpress.com/wp-content/uploads/2019/01/report-exploring-youth-outcomes.pdf>)

children's rights and establish a national strategy to provide a framework for provinces and territories to ensure equitable implementation of the UNCRC throughout the country. The vision for a national strategy is to spell out priorities, targets and respective responsibilities for the overall realization of children's rights, while enabling the provinces and territories to adopt their own specific plans and strategies. Facilitating effective transitions to independence for youth in care, such as through the development of national standards, could be a priority of such a national strategy.

Lastly, other witnesses, such as Dr. Doucet, have recommended a National Commission for Children and Youth to ensure accountability to any national standards developed. This aligns with a long-standing recommendation of the Committee on the Rights of the Child for Canada to establish an independent mechanism at the federal level to monitor children's rights and to receive, investigate and address complaints by children and young people.

The CCCYA has also long advocated for the implementation of a National Commissioner for Children and Youth – as has this Standing Senate Committee, such as in its 2005 *Who's In Charge Here?* report. This mechanism is critical to ensuring the rights, interests, and well-being of children and youth are championed within federal legislation, services, and policies that affect their lives.

Lastly, in addition to its recommendations specific to aging out of care, the National Inquiry into Missing and Murdered Indigenous Women and Girls' final report is unequivocal in its Call to Justice 12.9 for the establishment of a national child and youth commissioner to increase accountability for the rights of Indigenous children in Canada.<sup>20</sup>

If Canada is truly committed to advancing reconciliation with Indigenous peoples, then calls for a national commissioner cannot continue to go unanswered.

## **Recommendations**

In summary, as the Saskatchewan Advocate for Children and Youth, I recommend the Standing Senate Committee on Human Rights:

- ensure the scope of its study is not limited to foster care, and includes young people aging out of all types of government care;
- recommend the federal government collaborate with provincial, territorial and Indigenous governments to ensure readiness-based transitions from care, and increased follow-up and case planning supports for young people receiving transitional/extended support/post-majority services;

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<sup>20</sup> National Inquiry into Missing and Murdered Indigenous Women and Girls. (2019). *Reclaiming Power and Place: the Final Report of the National Inquiry into Missing and Murdered Indigenous Women and Girls*. Canada. Volumes 1a and 1b. (Retrieved from: <https://www.mmiwg-ffada.ca/final-report/>)



- recommend the federal government collaborate with provincial, territorial and Indigenous governments to increase the human resources capacity of, and ensure a qualified, adequately supported workforce within, child welfare systems to meet existing and any newly developed standards in order to achieve positive outcomes for children in and aging out of care; and
- urge the federal government to immediately implement the long-standing recommendations of the UN Committee on the Rights of the Child to:
  - improve its data collection system at the federal level in order to allow nationwide comprehensive monitoring of the rights of children and ensure that such data covers all areas of the Convention and its Optional Protocols, with data disaggregated by age, sex, disability, geographical location, ethnic and national origin and socioeconomic background, in order to facilitate analysis of the situation of children, in particular those in situations of vulnerability;
    - specific to this study, we would add this collection of data include system indicators related to the experiences of young people in care (ex. number of moves, type of placement, access to family, community, language and culture, etc.) and outcomes of young people leaving care;
  - expeditiously establish an independent mechanism at the federal level for monitoring children’s rights in line with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) that is able to receive, investigate and address complaints by children in a child-sensitive and child-friendly manner; and
  - adopt a national strategy that provides a comprehensive implementation framework for the federal, provincial and territorial levels of government, spelling out as is appropriate the priorities, targets and respective responsibilities for the overall realization of the Convention and that will enable the provinces and territories to adopt accordingly their own specific plans and strategies.

Thank you for your consideration of this submission.

Sincerely,

Lisa Broda, PhD  
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