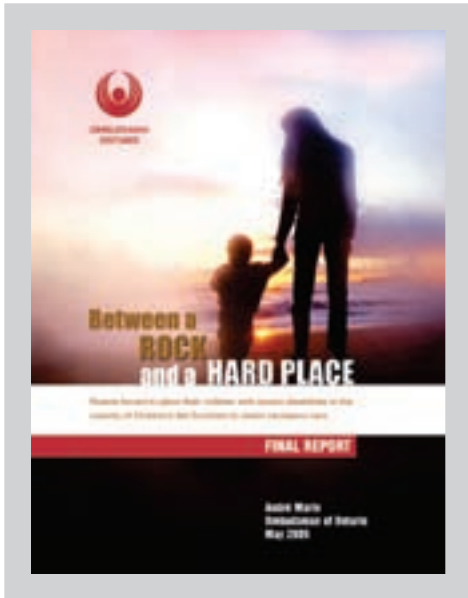


## Updates on Previous SORT Investigations

### *Between a Rock and a Hard Place – Special-Needs Children*



In his 2005 report, *Between a Rock and a Hard Place*, the Ombudsman found that as many as 150 families had been forced to surrender their parental rights to children's aid societies (CASs) in order to get their severely disabled children the residential care they required. He found that the Ministry of Children and Youth Services (MCYS) had failed these families in a manner that was "unjust, oppressive and wrong" and recommended the Ministry immediately ensure custody rights were restored and funding was provided for residential placements outside of the child welfare system.

In response to the Ombudsman's investigation, the Ministry announced an additional \$10 million to assist

children with severe needs in 2005, another \$10 million in 2006, and \$4 million was committed to Children's Treatment Centres in 2007. Some **65** children were also returned to the care and custody of their parents. Two of the Ombudsman's recommendations – that the Ministry remove its moratorium on special-needs agreements and that the government consider re-legislating the power to make special-needs agreements so that they are mandatory and administered outside of child protection matters – were not implemented. However, as an alternative, the Ministry committed to making special-needs services more accessible, better co-ordinated and centred on the needs of the children and their families.

In 2008, the Ombudsman's Office once again began to receive complaints from families of children with severe disabilities, including some who had already relinquished the care of their children to a CAS in order to obtain a residential placement. In other cases, the families were in crisis and struggling to cope with the level of resources provided, having been told that there was no more funding available for the remainder of the fiscal year and no guarantees that it would be available in future, but they would be placed on a waiting list. In desperation, many began the process of giving up custody of their children in order to obtain the services they required. As of March 31, 2009, the Ombudsman had received **24** such complaints. Ombudsman staff are closely reviewing them and, where warranted, working directly with senior Ministry officials to attempt to ensure that appropriate treatment and placements are secured for the children without parents having to give up custody rights.

In one case, the parents of a nine-month-old baby who is blind, has cerebral palsy and is severely developmentally disabled were forced to sign a temporary care agreement with a CAS in order to place their daughter in a facility where she will receive high-quality, 24-hour care. They had attempted to care for her at home but when they realized she required full-time residential care, their local service co-ordination agency turned them down, saying there were budgetary constraints

and waiting lists. They felt they had no option but to turn to the CAS. It was not until this family's case received considerable media attention and the Ombudsman's Office became involved that the MCYS intervened to secure funding for the child's residential placement and care and the parents' full custody rights were restored.

“If indeed this is happening again, then it is one of the most morally repugnant things that government has done.”

– Ombudsman André Marin, as quoted in the *Ottawa Citizen*, February 7, 2009

In another case, the parents of three special-needs children, including an eight-year-old boy with autism and attention-deficit-hyperactivity disorder, requested a residential placement for him because they felt they could no longer cope – at home, the boy had to be in a bare room with the bed bolted to the floor and locks on the door so he could not injure himself or others. He was placed on a priority list for placement, but they were told there was no money to fund his care even if a space became available. Feeling they had nowhere else to turn, the parents were on the verge of giving up custody rights to the CAS. But once the Ombudsman's Office brought the case to the attention of senior MCYS staff, a suitable residential placement with the requisite funding was procured within a few days.

In yet another case, the parents of twin developmentally delayed boys went to the CAS in the hope of obtaining residential treatment for one of their sons. They had previously seen the other boy improve significantly under residential care, but when they attempted to obtain a placement for the second son, they were told by their local service co-ordination agency that there was no funding available. The parents feared that the child was becoming a danger to himself and others and that his increasingly volatile behaviour was having a negative impact on his twin. They were preparing to sign a temporary care agreement with the CAS until the Ombudsman's Office raised the case with senior MCYS staff so that funding and arrangements for a residential placement could be secured.

“We implore this government to heed the words of [André] Marin and solve the deplorable situation that forces parents of disabled children to, as he says, ‘act out of desperation.’”

– *Windsor Star* editorial, February 11, 2009

In response to this surge in complaints, the Ombudsman met with the Minister of Children and Youth Services, who confirmed that the Ministry remained committed to ensuring adequate resources for the residential placement of special-needs children – and to the principle that no family should have to surrender custody rights to the CAS in order to obtain a residential placement. The Ombudsman expressed concern, however, that an “early warning system” was needed and that unless the Ministry implemented improved measures to identify serious cases and to work more closely with local service co-ordination agencies, the trend of parents having to turn to CAS authorities would continue. It was also noted that better monitoring mechanisms were required to improve the Ministry's awareness of waiting lists and budgetary constraints at the local level.

Senior Ombudsman staff continue to work closely with Ministry officials to address individual complaints and to identify means of resolving the broader systemic problems identified by the Ombudsman. The Ombudsman is seeking regular updates from the Ministry on its progress and monitoring trends in complaints to determine if a systemic investigation may be necessary in future.