

Wilfrid Laurier University

## Scholars Commons @ Laurier

---

Partnerships for Children and Families Project

Reports and Papers

---

10-2001

### Using Intermediary Structures to Support Families: An International Comparison of Practice in Child Protection

Nancy Colleen Freymond  
*Wilfrid Laurier University*

Follow this and additional works at: <https://scholars.wlu.ca/pcf>



Part of the [Family, Life Course, and Society Commons](#), and the [Social Work Commons](#)

---

#### Recommended Citation

Freymond, N. (2001). Using Intermediary Structures to Support Families: An International Comparison of Practice in Child Protection (Rep., pp. 1-33). Waterloo, ON: Wilfrid Laurier University, Partnerships for Children and Families Project.

This Child and Family Welfare Review Papers (2001) is brought to you for free and open access by the Reports and Papers at Scholars Commons @ Laurier. It has been accepted for inclusion in Partnerships for Children and Families Project by an authorized administrator of Scholars Commons @ Laurier. For more information, please contact [scholarscommons@wlu.ca](mailto:scholarscommons@wlu.ca).

# Partnerships for Children and Families Project

Using Intermediary Structures to Support Families:  
An International Comparison of  
Practice in Child Protection

N. Freymond

October, 2001

**DRAFT COPY**  
**(Do not cite without permission from author.)**

Nancy Freymond,  
Faculty of Social Work  
Wilfrid Laurier University  
Waterloo, Ontario  
N2L 3C5

Using Intermediary Structures to Support Families: An  
International Comparison of Practice in Child Protection

Nancy Freymond

October 2001

## **The Climate of Child Welfare in Ontario**

Over the past century, the nature of our response to child maltreatment<sup>1</sup> in Ontario has been periodically questioned, generally in relation to negative publicity surrounding a tragedy. The criticisms that result tend to be directed toward Children's Aid Societies (CAS) and are rooted in concerns about the acceptable level of State intervention into families, which may, depending on the nature of the tragedy, be understood as too intrusive or, alternatively, as too lax. Regardless of the nature of the criticisms, the outcome is often a restructuring of policies and practices that govern the level of State intervention into the private lives of families.

The end of the 1990's brought some of the harshest public criticisms ever levied against Ontario's child welfare system. Media coverage implicated this system in a number of child deaths, citing the system's failure to protect children as a key factor (Welsh & Donovan, 1996). In response, a committee of government-appointed members was convened to examine particular child fatalities (Hatton et al., 1998). Additionally, a review of child abuse and neglect files was initiated in order to assess compliance with established standards for child abuse investigation and management (Schwartz, 1998), and an independent evaluation was conducted in order to determine how the government fulfills its obligations under the child welfare legislation (The ARA Consulting Group Inc., 1998). The outcome of these assessments for the child welfare system was a number of practice and legislative changes including: the introduction of risk assessment instruments and standardized procedures for child abuse investigation; the expansion of the definition of a child in need of protection to include a pattern of neglect (CFSA, Section 37 (2) a); the lowering of the

thresholds for the definition of a child as being in need of protection ; and the accelerated legal processing of permanent placements for younger children.

For CAS s, these measures have led to an overall increase in the number of families that qualify for child protection services. Stringent procedures governing how protective services are delivered have caused both significant decreases in the ability of the social worker to make discretionary judgements, and an overall increase in the level of intrusiveness into families. As CAS s attempt to incorporate the new standards, they do so in a climate of extreme pressure. The number of open investigation, protection, and other child welfare cases steadily increases, as do the number of children in care (Ontario Association of Children s Aid Societies, March 2001). The demands for foster care placement exceed existing resources. Concerns about employee shortages, high turnover rates, and worker dissatisfaction are frequently expressed (Cameron, Freymond, Cornfield, & Palmer, 2001; Coulthard et al., January 2001). A front-line child welfare worker was recently charged with criminal negligence causing death in one of the highly publicized child deaths, although the managers above her were not similarly charged (Quinn, J., 1997). These legal issues also contribute to growing concerns about the level of personal accountability for workers when tragedies occur (Gilroy, 2000). The intensity of these pressures raises questions about how CAS s are now responding to families and children who require assistance, often with very profound problems.

### **Legalism vs. Welfare Models of Child Welfare Intervention**

The relationship between private family matters and State authority is complex, value laden, and firmly rooted in the historical, cultural, political, and economic foundations of society. In the debate between maintaining family privacy and allowing some degree of State

intervention, achieving and sustaining a balance that satisfies all stakeholders is difficult, if not impossible. The very nature of child maltreatment renders it an apt host for this ideological battle, a battle that is often differentiated along the broad dimensions of welfare and legalism.

The debate is particularly intense in the United States as, at one end of the continuum, advocates for children's rights press for models of intervention that emphasize legalism through use of intense investigation, narrow definitions of maltreatment, and the criminalization of abuse and neglect (Costin, Karger, & Stoesz, 1996). Stakeholders at the opposite end of the continuum subscribe to models that emphasize welfare, applying assessment and intervention for the purposes of maintaining and strengthening the family, which, in turn, is seen as germane to minimizing the risks of child maltreatment. It appears that an ideal balance between legal and welfare interventions in child welfare cannot be achieved; many systems are comprised of a combination of interventive models that attempt to address concerns found at both ends of the continuum, but generally systems can be categorized as having either a legal or a welfare emphasis.

The nature of child welfare structures that deliver services to families and children tends to reflect a position on the continuum between legalism and welfare. Legalism is emphasized in Ontario and therefore service delivery structures are organized around the use of court proceedings to adjudicate child welfare matters. Cases are identified and understood within a context where criteria for establishing legal grounds for intervention are a foremost consideration. Resources are poured into the primary technology of investigation, a process that seeks to identify families and children who match prescribed criteria, and into the expenses associated with the processing of families in an adversarial legal system. In

Ontario, the structures that are more representative of the welfare end of the continuum generally receive little emphasis, and their viability is often questioned, particularly in conservative political climates. With the lowering of thresholds that define child abuse, the addition of an expanded definition of child neglect to the legislation, accelerated legal processing, and attempts to standardize procedures for the assessment of risk to children, the latest reforms clearly signal a further shift in emphasis away from welfare models of intervention.

### **Other Approaches to Child Welfare**

The emphasis on legalism that is found in Ontario's child welfare system is not shared universally. Recent research examining European child welfare systems indicates that Western, post-industrial countries tend to share similar concerns for the well-being of children and families. To that end, they have mechanisms whereby the State may intervene in family life, and child welfare systems whose structures reflect their particular positioning on the continuum between welfare and legalism. These systems also encompass complex relationships between professionals (generally social workers), families, and the judiciary. However, a key difference is that some European systems show a strong preference for welfare models of intervention, where State efforts to assist families are aimed at strengthening, rather than diminishing, parental rights and responsibilities (Pires, 1993).

Some Western European countries have placed an emphasis on welfare models of State intervention, thus, child welfare structures are organized around assessment, parental involvement in decisions, voluntary participation, and relationship-building with the family. As opposed to legal processing, the key strategy for minimizing the risks of child maltreatment is the negotiation of appropriate supports to strengthen families. Resources are



invested in service delivery structures that mediate between voluntary helping relationships with a family and legal coercion -- those structures to which Hetherington and her colleagues (1997) refer as intermediary structures. Countries in which intermediary structures are prevalent have a range of procedures and programs that are organized around consensus building and the facilitation of co-operative working relationships. These practices allow for assistance to families and children to occur on a voluntary basis. When social workers are unable to negotiate voluntary assistance to families and children, more coercive methods, such as securing a court order, may be applied. However, coercion is considered to be both an undesirable and an inferior method of intervention. Thus, programs, such as mediation, aim to restore a co-operative relationship between service providers and families in situations where voluntary involvement has become compromised.

### **Focussing the Discussion**

This paper endeavours to look beyond the approaches of investigation and legal processing that are emphasized in Ontario's system by shifting attention to structures existing at the welfare end of the continuum. This exploration is done from the viewpoint that our strategies for responding to child maltreatment are not inevitable, but rather, socially constructed. The conceptualization of responses to child maltreatment on a continuum, ranging from a welfare-oriented approach on one end to a legalistic emphasis at the other end, is an invention that allows us to organize and make sense of systems that address child maltreatment. Inventions that organize experience lie against a backdrop of shared understandings, practices, [and] language (Schwandt, 2000, p. 198). Social constructionist epistemologies emphasize the historical, political, economic, and cultural aspects of the backdrop as well as the social aspects of knowing (Payne, 1997). For theorists like Gergen,

as cited in Schwandt (2000), constructionism is nothing more or less than a form of intelligibility - an array of propositions, arguments, metaphors, narratives, and the like - that welcome inhabitation (p.78) &[inviting] one to play with possibilities and practices (p.198). Therefore, social constructionism invites possibilities for responses to child maltreatment from within and extending beyond the prescribed boundaries of the continuum of welfare and legalism.

This paper examines how intermediary structures and roles in other systems are constructed to offer the kind of support that, in Ontario, is relegated to the fringes of mainstream protection work. The discussion opens with an exploration of the nature of intermediary structures and roles. It moves to an examination of judicial roles, which is followed by a look at structures and professional roles, considered intermediary in nature, and found in European child welfare systems. The paper will also discuss the roles and structures found in Ontario's child welfare system that resemble those of an intermediary nature found in Europe.

This paper is not written with the expectation that the methods of Western European systems are directly transportable. Child welfare systems are constructed within a web of values, beliefs, and cultural identities that are steeped in history and tradition. Clearly there is a relationship between assumptions about society and the effectiveness of particular methods of responding to child maltreatment (Cameron et al., 2001; Freeman, 2000). It is my hope that those who are thoughtful about the work of preventing and responding to child maltreatment can use cross-cultural comparisons to clarify the rationale behind choices, stimulate awareness of alternative views and rethink some of the emphases and methods that dominate our system.

### **What are Intermediary Structures?**

Child welfare systems whose interventions emphasize a welfare approach to responding to child maltreatment tend to be characterized by intermediary structures and/or intermediary professional roles. Hetherington and her colleagues (1997) define these structures and roles as those that function to preserve 'social space' among the judicial spheres, the State, and the family. Social space is sustained by institutions, whose presence in child welfare alters assumptions about voluntary services, thereby, strengthening worker authority in the negotiation and facilitation of voluntary services to families. The intention is to circumvent involvement of the law in a coercive manner. In England, the ability to negotiate services for families in a flexible manner has been eroded under conservative political agendas, which has led to a marked decrease in the breadth of these spaces (Hetherington et al., 1997). In child welfare, restructuring has led to replacing social space with procedure and regulation. Although these spaces in Ontario's child welfare system have never been broad, the neo-conservative policies of the current government and the general regressive social policy trends across North America would suggest that our social spaces are, likewise, shrinking.

The fallout for child welfare from neo-conservative political agendas for child welfare is enormous. It is in intermediary spaces that "...everyone - children, parents, professionals find[s] room to breathe, think, negotiate, plan, in the middle of the intensely complex and often long-term process of working out optimum solutions in cases of child abuse" (Hetherington et al., 1997, p. 7). As these spaces deteriorate, the strategies and solutions available to child welfare workers for responding to affected families decrease, so that the child welfare role becomes increasingly procedural in nature and more closely resembles that

of an agent of State control (King & Piper, 1995). State intervention into private family matters is more likely to be perceived as an intrusion rather than a supportive intervention designed to provide meaningful support to families and children. It may be that recent media coverage in Ontario that questions the necessity of CAS intrusiveness into families confirms a shift in public perceptions (Orwen, 2001).

### **Engaging the Judiciary in Continental Europe**

In Continental Europe, the readiness and purpose with which social workers and families engage judicial authority differs substantially from that of Ontario. Broadly speaking, the legal systems found in Continental Europe and Scotland engage in less coercive forms of intervention with families. The judiciary is inquisitorial, as opposed to adversarial, in its approach to settling family matters. The judiciary seeks information and understanding, focuses on the therapeutic needs of the family, and endeavours to respond flexibly and in accordance with these needs. In many countries, the judiciary responds to broad issues pertaining to well-being, as evidence of harm or abuse in relation to parental responsibilities is not a prerequisite for judicial involvement. The legal system is seen as having final authority, but the emphasis is on a consensual style where the goal is facilitated or negotiated justice. Judicial figures who have a consensual approach to child welfare matters are often in an intermediary role, where negotiation and deliberation involving the judge can occur either outside formalized legal proceedings or in a setting where all parties recognize that although the judge has and could exercise formal power, the use of this power produces the least desirable result.

### Juge des Enfants.

The French *juge des enfants* is probably one of the best examples of a specialist judiciary role on the Continent. Although some countries are very engaged in deterring families from judicial involvement, France has a much different understanding of the relationship between the judiciary and the well-being of families. Hetherington and her colleagues (1997) found that judicial engagement was more prevalent in France than in any of the other seven European countries they studied<sup>2</sup>.

The *juge* has considerable status within the French judicial system; only appeals are heard at a higher level (Baistow, Hetherington, Spriggs, & Yelloly, 1996). The *juge* is a specialist and has knowledge of those areas considered, by Ontario's standards, to belong to social work. For instance, the *juge* not only is expected to be skilled in communicating with children, but also is expected to understand child development, family dynamics, and other issues facing families and children who appear in this setting. The *juge* is expected to attend lectures and workshops relevant to these subject areas as an ongoing part of his or her work (King & Piper, 1995). This well-rounded knowledge base assists the *juge des enfants* in hearing cases where child maltreatment is a concern, as well as cases where child behaviour, such as delinquency, is problematic<sup>3</sup>. The *juge*, who is seen as a resource by French families, invites social workers and family members to come together for the purpose of negotiating agreements. There is a very limited use of individual legal representation; families interact and negotiate directly with the *juge*. Although a meeting with the *juge* can be a matter of compulsion, as is the judicial supervision order that may result, there is considerable effort made to find a level of acceptability to the parents. The *juge* seeks to invite consent of the family to the court-ordered measures, to re-establish any

authority of the parent that may have been assumed by the State, and to mobilize State resources in order to facilitate these outcomes (King & Piper, 1995; Luckock, Vogler, & Keating, 1996). Baistow and her colleagues (1996) found that, despite the compulsory nature of the involvement, parents were readily agreeable and often requested a renewal of the judicial supervision order.

### Giudice Tutelary

Italy's guardianship judge, who is part of the judicial system of the Court of Justice, oversees orders made by the youth court (*Tribunale per i Minorenni*). The *Tribunale per i Minorenni* is comprised of four magistrates, two of whom have particular competencies in the area of children's need. This youth court may ask for further investigation or consultation with the family. Once it has the necessary information, the court is required to make a statement. The *giudice tutelare*, who often works in cooperation with *Tribunale per i Minorenni*, may appoint guardians for children in families where parental powers have been removed by the youth court. The *giudice tutelare* also becomes involved when a minor needs an action authorized against parents' wishes, or when a minor's estate requires administration (Baistow et al., 1996). The *giudice tutelare* can actively intervene with families to implement the decisions of the youth court and can involve other helping agencies in this task (Hetherington et al., 1997). This judge finds ways to work with families through informal consultations, seeks to negotiate solutions to family difficulties, and is also available to social workers for informal consultations.

### Scotland's Children's Panel

Each local authority in Scotland has Reporters and a Children's Panel. The Panel consists of three lay members, working on a voluntary basis, who conduct The Children's

Hearing. Like the *juge des enfants*, appointed members of the Scottish Children's Panel have specialized training in the area of children's issues (King & Piper, 1995). It is the Reporter's responsibility to decide if the referrals from the social work department have legal grounds. Once this determination has been made, the Panel hears the case.

Since the introduction of The Children's Hearing System in 1971, the emphasis on due process in the legal sphere has caused a substantial increase in the legal representation of parties in court proceedings in many countries. Despite this trend, the Scottish Hearing remains largely informal and without the presence of representative legal counsel (Hallett, 2000). This legal meeting is attended by the child, the parents, the Reporter, and the social worker. The panel works intensively with social service departments to evaluate the merits of a period of care and the terms of this care (Hetherington et al., 1997). The Panels are limited to cases where there is agreement over the facts. When the family does not agree with the social worker, the case is referred to the Sheriff's court. This court decides whether or not to accept the social worker's report. If the report is accepted, it is returned to the Panel, who then develop a plan for the care of the child in question. Some social workers report that the Panel provides them with confidence and support for their decisions, enabling them to take risks with their families. Some also report feeling confident that a Hearing will reinforce a welfare approach, but also provide authority in involuntary situations (Hetherington et al., 1997).

### **Contrasting the Role of the Judiciary**

The above approaches contrast with Ontario, where the liberal State tradition separates the family and state, and the law settles disputes in an adversarial manner. Child welfare issues become a contest, with each side applying arguments that are constructed within a framework of legal rules and procedures. The judge is expected to rule in favour of the most legally sound presentation. Intermediary approaches, such as mediation, exist but are not central. The energies and resources of the child welfare system and the family in question are focussed on legal procedure, which is not necessarily conducive to finding and engaging in optimal strategies for changes in the family system. The ability to engage solutions that are least intrusive, which remains a requirement under the CFSA, becomes less and less meaningful in a system where minimal intermediary structures and roles restrict options.

#### *Ontario's Family Court Judge*

The energy, flexibility, and informality found in the intermediary roles of the *juge des enfants*, the *giudice tutelare* and the Scottish Children's Panel are central to securing mutually satisfying relationships between representatives of the state authority and the private family. In contrast, the role of an Ontario family court judge is largely reactive. S/he can only take action when rights, responsibilities, or duties have been somehow mismanaged, and this mismanagement has been drawn to the attention of the courts. The judge, who tends to be appointed based on skills and reputation as a lawyer, adjudicates according to legal rules and procedures. The judge listens to both sides and is the sole arbiter and decision maker. As opposed to achieving mutually agreeable solutions, success in Ontario's child



welfare courts is understood as winning the case through adherence to the definitions and procedures.

The global emphasis on due process has caused child protection legislation in Ontario to become increasingly more legally defined, which has decreased judicial discretion (Walter, Isenegger, & Bala, 1995). For example, the term best interests was once deliberately vague. However, it is now defined by a set of criteria that are considered by judges when making rulings; if the criteria are overlooked, the ruling may be vulnerable to appeals (Walter et al., 1995). So, as countries such as France and Italy with inquisitorial judicial systems remain broadly focussed, most Anglo-American adversarial systems, like Ontario's, have narrowed definitions and tightened procedures so that legal responses to child maltreatment have become very specific and restricted.

### **Contrasting Intermediary Structures in Child Welfare**

The child welfare systems of Belgium and the Netherlands provide examples of how intermediary structures facilitate interventions in matters of child maltreatment. In Ontario, there are programs that are linked to child welfare, such as mediation and children's mental health services, which resemble the intermediary structures of Continental Europe, although at present they are functioning at the margins of the system. In Ontario, these programs do not represent intermediary structures as defined by Hetherington and her colleagues (i.e. preserved spaces between administrative and judicial spheres - the state and civil society); nonetheless, they are valid attempts to preserve voluntariness between the state and the family, and to temper the dominance of the legalistic approach.

### Belgium s Mediation Committees

An intermediary structure that provides an alternative to judicial involvement consists of established procedures for engaging in the process of mediation. Mediation, by definition, is an intervention whereby an impartial third party, who has no decision-making power, assists the parties to a dispute in voluntarily reaching their own mutually acceptable settlement (McNeilly, 1997). It is a widely used intervention for divorcing couples, particularly in relation to custody disputes. In child welfare, mediation is intended to prevent the hostility that can arise between parents and child welfare authorities, particularly when legal action is taken. It aims to bring together the parties in a positive atmosphere to develop a plan to meet the child s needs.

The Belgian Flemish community makes more extensive use of mediation in child welfare cases than do other European nations. It is an integral and mandatory part of service delivery. When the voluntary relationship between service providers and the family becomes compromised and/or when attempts to motivate the family to change have proven futile, it is mandatory that social workers and families avail themselves of the mediation services of a six-member panel of volunteers, each of whom have child welfare backgrounds. This politically-sanctioned body has a dual purpose; it is a structure which is understood as an alternative to judicial processing, as well as a mediating structure, protecting families from state intrusion (Hetherington et al., 1997).

The deliberate selection of community volunteers for this role extends the responsibility for child welfare matters beyond that of the legal and the professional, although some critics question the ability of such a committee to grasp the complex family dynamics in some abusive situations (Luckock, Vogler, & Keating, 1997). This committee has no

authority beyond that of attempting to achieve, by means of its own mediation skills, a voluntary and cooperative working relationship between social workers and families. If there is a failure to reach agreement, the committee refers the family, via the public prosecutor, to the judge for children. As only the mediation committee can initiate referral to the legal system, it has a central and a responsible position in the delivery of child welfare services (Hetherington et al., 1997). However, the public prosecutor who assesses the legal grounds has the final authority in activating the referral.

### Ontario's Mediation Centre

In contrast, mediation services for child welfare cases in Ontario have not developed momentum. In the mid 1980's, June Maresca, a lawyer for the Catholic Children's Aid Society in Toronto began discussions with American counterparts about a model of mediation for child welfare. She and her colleagues were concerned by the excessive preparation and delays that judicial processing requires (Maresca, 1995). As well, critics contend the legal strategies involved in winning a case, by their very nature, create an institutionalized antagonism that decreases dialogue and hampers helping relationships (King & Piper, 1995; Luckock et al., 1996; McNeilly, 1997; Palmer, 1989).

In 1989, mediation was initiated for ten child welfare cases, which marked the beginning of what was to become the Toronto-based Centre for Child and Family Mediation. By 1994, an agreement was struck whereby Legal Aid Ontario<sup>4</sup> and the Children's Aid Society of Toronto each agreed to pay 50% of the costs associated with the mediation of child welfare cases at the Centre. Other communities have initiated similar mediation programs, but no Legal Aid funding has been made available for these projects (J. Maresca, personal communication, October 23, 1999).

Despite reports from social workers of high compliance rates of the parties with the agreed upon terms of mediated settlements, as well as reports of virtually universal user satisfaction, it is not an intervention that has gained significant momentum (Maresca, 1995). Maresca suggests that the demonstration of its cost-saving abilities, which is a prime consideration for funding bodies, is hampered by insufficient research data. Furthermore, it is difficult for social workers, who are both overworked and confined to a culture plagued by a bureaucratic inertia, to deviate from their standard procedures and daily routines. Of the hundreds of child protection cases that were legally processed in Toronto in 1998/99, approximately a dozen were mediated at the Centre (J. Maresca, personal communication, October 23, 1999). The Child and Family Services Act does not recognize mediation. However, it does, in its Declaration of Principles, indicate that intervention should be provided on the basis of mutual consent. At the same time, it ensures provision for legal representation for all parties.

The 1998 Report of the Panel of Experts on Child Protection: Protecting Vulnerable Children, whose recommendations were followed in most of the 2000 amendments to the Child and Family Services Act, recommended that the legislation require courts to consider mediation in appropriate circumstances. The report described the legal system as "adversarial, complex, costly, and time consuming" (Hatton et al., 1998). This recommendation was not acknowledged in the amendments. However, the Ministry of the Attorney General has expressed interest in the Toronto-based program, which suggests some optimism with respect to its eventual incorporation in the legislation (J. Maresca, personal communication, October 23, 1999).

### Belgium's Confidential Doctor Centres

Based on research conducted between in the late 1970's and early 1980's that identified confidentiality as the key aspect of non-repressive help and protection, Confidential Doctor Centres were developed in Flanders. The Centres are well known for their commitment to family support and play a leading role in child protection. The Centres are committed to a philosophy that understands families where child maltreatment occurs as being in need of support, rather than coercion, in order to facilitate meaningful changes in functioning (Pringle, 1998). The philosophy underlying this approach also includes an emphasis on respecting confidentiality instead of implementing control, emphasizing solidarity instead of reporting, mobilizing the family's own resources instead of maintaining their passivity, and encouraging collaboration among professionals instead of competition (Marneffe & Broos, 1997, p. 182). The Centres are committed to changing public opinion, in order to rescue the child abuse issue from what they see as a reductionist understanding that blames parental pathology without taking into account the complexities of the issues (Marneffe & Broos, 1997).

In keeping with this philosophy, a clear separation from the judiciary is a prerequisite to establish trusting relationships. Judicial intervention is seen as interfering with trust-building in helping relationships, although it may be necessary in situations where parents are unable to question their own behaviour in relation to their children (a situation that is common among addicts, the mentally handicapped, or those who are seriously mentally ill). Initially, the Centres worked in conjunction with the judiciary but have since abandoned these arrangements (Luckock et al., 1997). Therapy teams provide intensive therapeutic intervention with families and couples, who may be self-referred or referred by another

professional, as well as providing consultation to professionals, such as social workers or physicians. One source of data reports an increase in self-reporting from 2% to 38% since the system was modified and parents encouraged to ask for help, a change that is attributed to the parents confidence that their requests for help will not be met with judicial control (Marneffe & Broos, 1997). Hence the Confidential Doctor Centres figure prominently in the intermediary space between the families and the judiciary, and have a leading role in child protection.

It has been argued that the stance of the Flemish Doctor's Centres on confidentiality may not free therapeutic alliances from the possibility of judicial involvement in cases where families reject treatment (Luckock et al., 1997). There are also questions about the nature of working consensually, particularly when authority may be exercised in a subtle manner in order to secure participation of families under a voluntary status (Luckock et al., 1997). For instance, parents have been reportedly offered help from the Doctor's Centre or repression from elsewhere (Luckock et al., 1997). Authority, exercised in such a manner, may be seen as intruding on civil liberties.

#### *Ontario's Children's Mental Health Services*

Confidentiality is not formally possible in Ontario to the degree to which it is in the Belgian Doctor Centres. Ontario's children's mental health services employ many professionals who are qualified for the task of co-ordinating and providing treatment services to families where children may be at risk. The Child and Family Services Act requires all professionals to inform child welfare authorities of any situations where there is a suspicion that a child may be in need of protection (CFSA Section 72(4)). Moreover, the 2000 amendments to the CFSA lower the threshold for reporting child abuse, requiring

professionals to report suspicions, as opposed to beliefs, that child abuse may have occurred. It is incumbent on the legal system to make decisions regarding the verifiability of the report. The professional who has the suspicion is legally obligated to directly report those concerns to the child welfare authority (CFSA Section 72(3)). This procedural change places those who work with families in children's mental health settings in the difficult role of requiring a strong therapeutic alliance, in order to accomplish the work of assisting families with change, while simultaneously being required to report all suspicions, which risks adding further pressure to families and children who are already stressed and vulnerable.

Child welfare workers, who must meet the requirements of their own investigative protocols, may be hampered in their ability to work either jointly or flexibly with children's mental health professionals. Particularly in situations where apprehension is being considered, child welfare interventions may cause heightened concerns that information revealed during the mental health processes of assisting families with change will become available to authorities. This lack of confidentiality may hamper the ability of children's mental health professionals in creating an optimum climate for intervention. The result is a gap that is created between the work of the children's mental health professional and the responsibilities of the child welfare system for responding to children deemed at risk.

Additionally, the stringent reporting measures that were enacted in order to further increase the safety of children in Ontario require consideration. Families who often are struggling with very complex issues become increasingly vulnerable to unwarranted suspicions and unnecessary, stressful investigations when professionals have a diminished ability to apply discretion for assessing risk. The alienation of vulnerable families from

potential sources of help is a probable and undesired outcome of more stringent reporting measures.

### *The Netherlands Confidential Doctor Offices*

The Confidential Doctor Offices in the Netherlands were intermediary structures that, although similarly named, played a much different role than the Doctor Centres in Belgium<sup>1</sup>. Four Confidential Doctor Offices were established in 1972. Here, suspicions of child abuse could be reported and medical professionals found opportunities to share child abuse findings with colleagues without violating professional codes of confidentiality. The Doctor Offices substantiated concerns and co-ordinated treatment efforts for families. Voluntary working relationships were encouraged, and the Doctor Offices were generally seen as compassionate (Baartman & de Mey, 2000; Roelofs & Baartman, 1997). Treatments included receiving counselling about parenting from the school or a family doctor, regular social work visitation, and individual or family therapy (Roelofs & Baartman, 1997). More extensive intervention included voluntary out-of-home placement. If the family voluntarily embraced the planned interventions, the Confidential Doctor Offices provided a follow-up assessment after a six-month period to evaluate the level of progress for the family and to make alterations to the plan, if required. If the family was responding to treatment, the involvement of the Confidential Doctor Offices would cease at that point. Their efforts in establishing a comprehensive plan with families made their role in the prevention of child abuse extremely important. In their intermediary position, they attempted to persuade families to respond voluntarily.

---

<sup>1</sup> The Netherlands has recently changed their child protection system from Confidential Doctor Offices to Child Abuse Reporting Centres (Personal communication with Rachael Hetherington, July 2001). The change is so recent that there is not much information available about its impacts; therefore, the information presented in this paper will focus on the Netherlands previous use of Confidential Doctors Offices.



The Confidential Doctor Offices, which totalled 12 by the late 1990's, were established as an alternative to the Netherlands Child Care and Protection Board, which was established in 1905 and was considered to be the controlling arm of the child welfare system (Hetherington et al., 1997; Roelofs & Baartman, 1997). Although, the Confidential Doctor Offices received all levels of child abuse reports, the most severe cases were often referred to the Child Care and Protection Board, who brought these matters to the attention of the court. The government-managed Child Care and Protection Board primarily employed social workers, who used statutory authority to investigate families and to seek judicial involvement to limit parental rights. This Board has been compared to Child Protection Services in the United States (Roelofs & Baartman, 1997) and the Social Services Department in Great Britain (Baartman & de Mey, 2000), which are systems that bear many resemblances to Ontario's system of child welfare. Unlike the Confidential Doctor's Office, the Board did not have an explicit role in persuading families to respond voluntarily or in deflecting them from more authoritative judicial intervention.

#### Ontario's Children's Aid Societies

Ontario's CAS's provide services to families where children are assessed as being in need of protection. The services may be mandatory, regardless of their willingness for intervention. Families enter the system via a demerit accounting system, whereby children must score sufficient points to be classified as at risk of maltreatment before ongoing services are provided. An overwhelming portion of the available resources is directed toward those families who require legal processing and/or child placement.

Families who fit the criteria and are prepared to engage voluntarily in interventions are most likely to be referred for treatment outside the child welfare system, while the child

welfare worker continues to monitor the situation until the protection concerns are satisfied. During the period when a family is voluntarily involved with the child welfare system, overworked social workers will be required to respond to a number of crises that arise with other families on their caseloads, many of which will take precedence over the needs of families whose participation is voluntary. Once the protection concerns are satisfied, there is no comprehensive process whereby follow-up assessment and further planning is conducted; families return to the child welfare system should their circumstances deteriorate sufficiently. The comprehensive planning, the connecting links to the range of services, and the coordinated follow-up evaluations found in the Netherlands are not found in Ontario.

### **Contrasting Intermediary Roles**

#### *Belgium s conseiller.*

One of the individual structures that fulfills an intermediary function in European child welfare systems is the Belgian *conseiller*. While the Flemish community of Belgium favours structures such as mediation committees and Confidential Doctor Centres, the Francophone community's intermediary functions are accomplished through the role of the *conseiller*. This legally trained individual is appointed by the government and receives referrals when there is a breakdown of the voluntary arrangement between the family and the service provider. The *conseiller* activates all referrals to the legal sphere, but not without first attempting to reach or renew a voluntary agreement for services. The services of the *conseiller* may be requested by family members, including children, and social workers.

### Scotland's Reporter

In Scotland, the Reporter to the Children's Panel has a pivotal intermediary position, which, like the Belgian *conseiller*, diverts family situations from the judicial sphere. The Reporter decides whether there are sufficient grounds for a hearing, whether further voluntary services are required, or whether no further action is warranted (Hetherington et al., 1997). A Reporter may opt to refer a child welfare family for mediation. Reporters are accessible to professionals, parents, or children for consultation. Reporters are selected from a range of disciplines including law, social work, and education. Diversion is central to the philosophy of the Scottish system; if the Reporter refers a family to the judicial sphere, the option remains at the judicial level for decision making to be deferred, while further intervention at another level is attempted.

### Ontario's Wraparound Co-ordinator

This position is relatively new in Ontario's social services network and shows considerable promise in terms of its possibilities for engaging families in an intermediary role. Child welfare workers are recognizing the need for treatment programs that are tailored to the needs of the family (Brown & Debicki, 2000). Traditionally, treatment services in Ontario have been delivered via referral to existing programs that may or may not be appropriate for the particular needs of the family. A Wraparound strategy is designed to bring together resources from family, community members, and professional helpers in an effort to build on the strengths of the family and assist with identified needs; in essence, to "wrap" services and supports around the family (Brown, 2000). Wraparound generally focuses on children who may require out of home placement, although its merits in assisting

families before they come to the attention of the child welfare authorities are also being considered (Brown & Debicki, 2000).

Since 1998, seven communities in Ontario have implemented Wraparound, and those whose implementation has been most successful have secured funding for a co-ordinator's position. This person is able to be neutral in relation to social service agencies by reporting to a team consisting of community representatives, professionals, parents, youth, and former consumers of service (Brown & Debicki, 2000). The co-ordinator's role is essential to the success of the Wraparound process and, in a sense, functions in an intermediary capacity. Although, to date, this position does not have the authority of formalized linkages to the judicial sphere, there is considerable potential for the Wraparound co-ordinator to relieve pressures from child welfare workers through planning service needs for families, linking families to resources, and ongoing evaluation of service plans. There is also considerable potential for the Wraparound co-ordinator to become active in diverting families away from expensive, time-consuming, and often unhelpful judicial involvement. Government funding has now been made available for a co-ordinator in each of the communities where the project was initiated, which suggests an acknowledgement of the importance of this role.

### **Conclusion**

There are a number of reasons why the state of child welfare in Ontario is of concern, not only to those who deliver child welfare services, but also to policy makers and to the public. As ideologies about what is best for children intersect and overlap, it is abundantly clear that the complexities of child maltreatment defy simplistic solutions. Despite these complexities, recent reforms point to an increasing reliance on legalism, a decreasing flexibility in systems design, and a minimizing of opportunities to apply discretion. Child

welfare workers and judges alike have been reduced to applying particular and predictable responses, regardless of the needs of the family.

Intermediary structures and roles have not received attention in Ontario's model of child welfare service delivery, despite their potential for creating co-operative working relationships with families. As well, intermediary roles and structures have potential for decreasing expenses involved in the legal processing of families<sup>5</sup>. Although there are complications in cross-cultural patterns of data collection with respect to statistics on incidence of child maltreatment and the effectiveness of intervention, there is no sense from the literature that the countries cited in this paper have disproportionately high rates of child maltreatment. Furthermore, it does not appear that methods of responding to child maltreatment in Ontario are, in any way, more effective than those of our international counterparts. What seems certain is the advantages that intermediary roles and structures offer to families in need are overlooked in a system dominated by a legalistic approach.

Ontario is not impervious to the new conservative agenda that has swept Anglo-American countries. The political climate in Ontario has favoured a conservative agenda since 1995. Generous social welfare provision that was once considered the hallmark of a thriving compassionate country, as well as added protection for citizens from labour market fluctuations and uncertainties, has given way to an approach that views recipients as economic burdens, responsible for government debt. A neo-conservative agenda values individual reliance and autonomy over a communal understanding of the public interest.

As mentioned earlier, all child welfare systems reflect values and principles that are steeped in historical and cultural traditions. Engrained in Ontario's child welfare history is a focus on individual responsibility. Several critics have argued that this focus holds mothers

accountable while ignoring the effects of a plethora of social ills that contribute to child maltreatment (see Callahan, 1993; Swift, 1995; Wharf, 1993). In our history, the child welfare system has seen periods with increased possibilities for intermediary roles and structures. For example, Ontario's family preservation approach to child welfare in the 1970's and 1980's was based on ideas that increased services and supports would assist families in overcoming problems and remaining intact.

However, the system has never shifted sufficiently to establish different values (i.e. understanding child abuse as a community responsibility) or to allow intermediary roles and structures to become embedded in the service delivery system. Over the past century, Ontario's child welfare system has continued to focus its service delivery narrowly on individuals, while economic and social factors remain in the background (Swift, 1998). We have a system that may periodically restrict the level of intrusion into families at risk of child maltreatment, while simultaneously continuing to uphold the values consistent with individual reliance and autonomy.

Increasing possibilities for intermediary spaces in Ontario's child welfare system shows promise for resolving some of the problems of the current system. These opportunities could be provided through the recognition and enhancement of professional roles such as the Wraparound co-ordinator, or existing programs like mediation, as well as through recognition of the potential value of ensuring confidentiality in children's mental health settings. For families and children, intermediary spaces would provide more opportunities for access to the co-ordinated services required to resolve issues that contribute to child maltreatment. Intermediary spaces would also provide possibilities for establishing less adversarial working relationships, which may increase possibilities for access to, and identification of, our most

at-risk children. Furthermore, these intermediary spaces have the potential to establish more favourable circumstances for meaningful change.

For those who do the work of responding to child maltreatment, intermediary structures and roles would allow for a recovery of professional discretion; social workers, whether in a child welfare setting or a mental health setting, could apply their skills in a reasoned way, while recognizing that the optimum response to each family is a planned and comprehensive interventive strategy designed to complement and respond to the family's unique needs. For the social work profession, it would be an opportunity to address the incongruence between the nature of the profession and the duties required of social workers in Ontario's CASs. Traditionally, social work's place and function in society centred on the creation of social peace, to be established, not primarily by coercive means, but through the considered, informed and professional negotiation of differences and inequalities &[it belongs] to the self-regulatory structures of modern society which mediate between individual and state (Lorenz, 1994, pp. 4-5). Thus, social work belongs in an intermediary climate.

It is difficult for promising alternatives that lie outside the philosophical boundaries of current child welfare practice to gain credibility (Swift, 1997). These ideals seem very distant from the realities of Ontario's current child welfare system, but there is reason for optimism. To move toward the creation of intermediary spaces does not involve a total revamping of philosophies and structures. Mediation programs, children's mental health services, and Wraparound co-ordinators already exist. To varying degrees, their merits have captured government attention. Our task as a profession is to resist the tendency to become absorbed in the day-to-day requirements of mandated, legislated practice. We must

recognize that embracing services outside mainstream child welfare increases possibilities for intermediary roles and structures to gain recognition, and for families and children to find solutions. Our task as advocates and researchers is to continue to nudge forward those components of our social service systems that show potential for creating the philosophical and structural shifts required for a society that supports vulnerable families.

<sup>1</sup> I have deliberately selected this word because it can be generally applied across cultures, although each society will have particular ideas about what situations and actions constitute maltreatment. Child welfare tends to refer to the nature of the work dealing with child maltreatment. In Ontario organizations responsible for child welfare matters were originally named Children's Aid Societies (CAS). Although many have changed their name to Family and Children's Services, these organizations are still commonly referred to as CASs. In the United States these organizations are generally referred to as Child Protection Services (CPS). A child in need of protection in Ontario has been legally constructed under the Child and Family Services Act (CFSA). Child abuse is generally considered to be those situations that meet the criteria that are specified by the Act.

<sup>2</sup> The other seven include: Belgium (Flemish Community), Belgium (Francophone Community), Germany, Italy, Netherlands, England, and Scotland.

<sup>3</sup> In Ontario the Juvenile Delinquents Act (1908-1984) required that child offenders be dealt with as children needing aid, encouragement, help and assistance. In practice, juvenile judges were strongly influenced by notions of punishment. In 1984 the Young Offenders Act, which replaced the Juvenile Delinquents Act, legally separated child welfare and young offenders and placed a strong emphasis on rights and due process, thus marginalizing legal responses to crime based on welfare (Bala, 1999). In France, Belgium, Italy, Netherlands, and Scotland, children's judges work in both juvenile justice and child protection.

<sup>4</sup> Ontario's Legal Aid Plan was first established in 1951 under the guiding principle of equal access to justice for poor people. Under the plan, private lawyers represent clients who have legal aid certificates. Lawyers are reimbursed for services via the provincial government. Applicants are assessed according to their financial situation, and all, or a portion of, their legal costs may be covered, based on eligibility. Between 1980 and 1990 the plan, which originally focussed on criminal matters, expanded to include family matters as well. As of 1998, the provincial government introduced legislation to create an independent agency called Legal Aid Ontario. Lawyers whose fees are covered by legal aid represent the majority of child welfare clients in court.

<sup>5</sup> Brown and Debicki cite data (Brown & Hill, 1996) that suggests considerable potential for wraparound to save money. They report that, based on 28 cases, the cost of providing wraparound services was one sixth of the average cost for all out of home placements combined (Brown & Debicki, 2000). June Maresca indicates that the demonstration of cost effectiveness for mediation has been a challenge given the lack of necessary research money for this exploration.



## References

The ARA Consulting Group Inc. (1998). Child welfare accountability review: Final report. Toronto: Ministry of Community and Social Services.

Baartman, H. E. M., & de Mey, L. (2000). Protecting, supporting and reporting: Child abuse and assessment in the Netherlands. In M. Freeman (Ed.), Overcoming child abuse: A window on a world problem (pp.281-304). Aldershot: Ashgate.

Baistow, K., Hetherington, R., Spriggs, A., & Yelloly, M. (1996). Parents speaking: Anglo-French perceptions of child welfare interventions, a preliminary report. London: Brunel University.

Bala, N. (1999). Reforming Ontario's Child & Family Services Act: Is the pendulum swinging back too far? [<http://qsilver.queensu.ca/law/papers/cfsareforms1999.htm>].

Accepted for publication to Canadian Family Law Quarterly 27/7/99.

Brown, R. (2000). The wraparound process. In N. F. Coady & P. Lehman (Eds.), Theoretical perspectives in direct social work practice: An eclectic-generalist approach (pp. 347-365). New York: Springer.

Brown, R., & Debicki, A. (2000). The "wraparound" process: Strength-based practice. In M. Callahan, S. Hessele, & S. Strega (Eds.), Valuing the field: Child welfare in an international context (pp. 81-97). Aldershot: Ashgate Publishing Company.

Cameron, G., Freymond, N., Cornfield, D., & Palmer, S. (2001). Positive possibilities for child and family welfare: Options for expanding the Anglo-American child protection paradigm. Waterloo, ON: Partnerships for Children and Families Project, Faculty of Social Work, Wilfrid Laurier University, 107pp.

Costin, L., Karger, H. J., & Stoesz, D. (1996). The politics of child abuse in America.

New York: Oxford University Press.

Coulthard, C., Duncan, K., Goranson, S., Hewson, L., Howe, P., Lee, K., Persad, S., McDonald, C., Raposa, C., & Schatia, D. (January 2001) Report on Staff Retention.

Toronto: Children's Aid Society of Toronto.

Freeman, M. (2000). Child abuse: The search for a solution. In M. Freeman (Ed.), Overcoming child abuse: A window on a world problem (pp. 1-14). Aldershot: Ashgate Publishing Limited.

Gilroy, J. (2000). The changing face of child welfare: Perspectives from the field. In M. Callahan, S. Hesse, & S. Strega (Eds.), Valuing the field: Child welfare in an international context. Aldershot: Ashgate Publishing Limited.

Hallett, C. (2000). Where do we go from here? The International Context: Trends in Juvenile Justice and Child Welfare [<http://www.scotland.gov.uk/cru/documents/ech4-02.asp> December 12, 2000]. Scottish Executive.

Hatton, M. J., Campbell, G., Colarftoni, H., Ferron, R., Huyer, D., Ortiz, T. J., MacMillan, H., & Trocme, N. (1998). Protecting vulnerable children. Toronto: Ministry of Community and Social Services.

Hetherington, R., Cooper, A., Smith, P., & Wilford, G. (1997). Protecting children: Messages from Europe. Dorset: Russel House Publishing Ltd.

King, M., & Piper, C. (1995). How the law thinks about children (Second ed.). Brookfield: Ashgate Publishing Company.

Lorenz, W. (1994). Social work in a changing Europe. London: Routledge.

Luckock, B., Vogler, R., & Keating, H. (1996). Child protection in France and England - authority, legalism and social work practice. Child and Family Law Quarterly, (4),

297-311.

Luckock, B., Vogler, R., & Keating, H. (1997). The Belgian Flemish child protection system - Confidentiality, voluntarism and coercion. Child and Family Law Quarterly, 9(2), 101-113.

Maresca, J. (1995). Mediating child protection cases. Child Welfare League of America, LXXIV(3), 731-742.

Marneffe, C., & Broos, P. (1997). Belgium: An alternative approach to child abuse reporting and treatment. In N. Gilbert (Ed.), Combatting child abuse: International perspectives and trends (pp. 167-191). New York: Oxford University Press.

McNeilly, G. K. (1997). Mediation and child protection: An Ontario perspective. Family and Conciliation Courts Review, 35(2), 206-222.

Ontario Association of Children's Aid Societies (March 2001). Workload Measurement Project: Executive Summary. Journal of Ontario Association of Children's Aid Societies, 45(1), 9-23.

Orwen, P. (2001, July 15). Spanking law divides town and country. The Toronto Star, p. A1.

Palmer, S. E. (1989). Mediation in child protection cases: An alternative to the adversary system. Child Welfare, 68, 21-31.

Payne, M. (1997). Modern Social Work Theory (Second Ed.). Chicago: Lyceum Books, Inc.

Pires, S. A. (1993). International child welfare systems: Report of a workshop. Washington D.C.: National Academy Press.

Pringle, K. (1998). Children and social welfare in Europe. Buckingham: Open

University Press.

Quinn, J. (1997). Caseworker charged in baby's death: Infant died of starvation while under supervision of catholic children's aid. The Toronto Star: p. A1.

Roelofs, M. A., & Baartman, H. E. (1997). The Netherlands: Responding to abuse - Compassion or control? In N. Gilbert (Ed.), Combatting child abuse: International perspectives and trends (pp. 192-211). New York: Oxford University Press.

Schwandt, T. A. (2000). Three Epistemological Stances for Qualitative Inquiry: Interpretivism, Hermeneutics, and Social Constructionism. In N. K. Denzin & Y. S. Lincoln (Eds.), Handbook of Qualitative Research (Second Ed.) (pp. 189-213). Thousand Oaks: Sage Publications Inc.

Scottish Children's Reporter Administration. (1999). Annual report 1997/8. [<http://www.scotland.gov.uk/cru/documents/ech4-02.asp> December 12, 2000].

Schwartz, P. (1998). Report of the 1997 child protection file review. Toronto: Ministry of Community and Social Services.

Swift, K. J. (1995). Manufacturing 'bad mothers': A critical perspective on child neglect. Toronto: University of Toronto Press.

Swift, K. J. (1997). Canada: Trends and issues in child welfare. In N. Gilbert (Ed.), Combatting child abuse: International perspectives and trends (pp. 38-71). New York: Oxford University Press.

Swift, K. J. (1998). Contradictions in child welfare: Neglect and responsibility. In C. T. Baines, P. M. Evans, & S. Neysmith, M. (Eds.), Women's caring: Feminist perspectives on social welfare (pp. 160-190). Toronto: Oxford University Press.

Walter, B., Isenegger, J. A., & Bala, N. (1995). "Best interests" in child protection

proceedings: Implications and alternatives. Canadian Journal of Family Law, 12(1), 367-439.

Welsh, M., & Donovan, K. (1996, September 18). They died despite signs of abuse  
[One of a series]. The Toronto Star, p. A1.

Wharf, B. (Ed.). (1993). Rethinking child welfare in Canada. Toronto: Oxford  
University Press.



## Partnerships for Children and Families Project

Wilfrid Laurier University

Waterloo, Canada N2L 3C5

Email: [partnerships@wlu.ca](mailto:partnerships@wlu.ca)

Local: (519) 884-0710 ext.3636

Toll Free: 1-866-239-1558

Fax: (519) 888-9732

