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Office of the Provincial Advocate  
for Children and Youth

Investigation Report:  
Johnson Children's Services Inc.  
(Thunder Bay)

Office of the Provincial Advocate for Children and Youth  
March 2019

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## I. EXECUTIVE SUMMARY

The decision to investigate Johnson Children's Services ("JCS") homes in Thunder Bay was sparked by a call from one of their employees, who believed the foster care staff who worked there were poorly trained and ill-equipped to meet the complex needs of the children in their care. While she was mostly concerned about the safety of the children, the "whistleblower" also identified problems with the physical condition of the homes. The subsequent investigation conducted by Investigators from the Office of the Provincial Advocate for Children and Youth substantiated these concerns.

The findings in this report are based on interviews with 28 individuals including: staff and management of JCS, youth who lived during the relevant time period, representatives from the Ministry, representatives from the placing Children's Aid Societies, and professionals from the community. Investigators also obtained documents from JCS, the three involved Children's Aid Societies, the Thunder Bay Police Service, and community professionals.

Johnson Children's Services has a licence from the province to provide foster care services to children. According to the government, the purpose of the licensing system is to "provide assurances" to children, families, and the agencies who place children into foster care homes that "minimum standards are met" and that a "basic level of care is being provided" by the organization or individual that holds the licence. As this investigation demonstrates, a licence is not a guarantee that minimum standards have been met and, in fact, may provide false assurance to placing agencies about the quality of care that can be expected at a particular residential placement. There are three reasons for this: (1) Minimum standards do not exist in a number of areas that impact the care of children; (2) When problems are discovered at a particular residential placement, by either an agency or the Ministry, there is no clear pathway for these organizations to share this information with each other; (3) The Ministry only typically reviews 10% of the homes operated by a foster care agency during a typical annual licensing review.

Under the current framework, a foster care agency is permitted to describe itself however it chooses, and can be granted a licence based on the agency's own description of the services it intends to provide to children. JCS held itself out to children's aid societies as a foster care agency that was able to provide treatment and individualized services to children with special needs, and did so with the endorsement of the Ministry. Yet there are no objective standards in legislation, regulation, or Ministry policy, that determine what constitutes a "treatment foster home" and the Ministry does not assess the quality of the "treatment" that is paid for by placing agencies and delivered to children in residential care.

This is particularly significant because the children who were placed in the JCS homes in Thunder Bay were struggling with mental health challenges including self-harm, depression, acute suicidal ideation, sexual assault trauma and substance abuse.

Although foster care agency operators are required to provide training to foster parents and staff that “meets the needs” of the children and youth in their care, there are no provincial standards that establish the level of experience, education or training that a person must have in order to work in a foster care agency—much less a “treatment foster home”. Many of the foster parents and staff who were hired to work in the home, often under “Special Rate Agreements”, were ill equipped to meet the needs of these children. Most of them were very new to the field of social services and the training they received from JCS consisted of reviewing a 91 page slide deck.

Serious concerns about the capacity to staff to meet the needs of the high risk youth in JCS care were raised by a number of different agencies, but none of the organizations involved with JCS had a complete understanding of the extent of the concerns that had been expressed across the children’s services system about JCS operations in Thunder Bay. For example, the Ministry was not aware that a local hospital, local police service, placing children’s aid societies and mental health agencies in Thunder Bay had raised concerns directly with JCS, and in some instances reported these concerns to the local children’s aid society for investigation. Similarly, there was no formal mechanism to ensure that the children’s aid societies responsible for the children placed in the JCS homes in Thunder Bay were aware of the ongoing concerns of the Ministry and the fact that the Ministry had amended the terms and conditions of the JCS licence, twice, in 2016.

With respect to financial arrangements, the Ministry approved basic rate was \$158.50 per day (although JCS was charging \$160.00 per day). However, the Ministry does not assess the quality of the services provided, nor does it provide any direction to agencies as to how a foster care agency spends the money it receives. JCS also received additional funding through “Special Rate Agreements” for every young person living in the homes. These Special Rate Agreements were negotiated between the placing agencies and JCS in order to provide 1:1 staffing support for young people with “high needs”. These agreements are another area in which there are no rules and very little oversight. In the case of one youth, JCS received a total of \$13,800.00 per month (\$4800.00 based on the \$160.00/day *per diem*, plus \$9000.00 for 12/hour day “one on one” support). Again, there are no objective standards to determine whether the funds paid to a foster care agency or any other residential services provider represent a reasonable payment for the quality of service provided.

In May 2017, the Ministry ordered the closure of the JCS Homes operating in Thunder Bay. As a result, this report makes no recommendations towards JCS and instead offers a number of recommendations to prevent similar situations from happening again. One of the key recommendations is that the Ministry clearly and publicly identify itself as the “lead” agency for the purpose of ensuring that remedial action and any concerns about a residential services provider are addressed appropriately.

All recommendations can be found at the end of the report. Both the Ministry and JCS were provided with a draft copy of the report and offered an opportunity to respond to the recommendations. Their responses are included in the Appendices section.

JCS concurred with the recommendations contained in this report.

In its response, the Ministry indicated that it has taken action in a number of areas such as: the development of a new standard inspection process that will include verification of the services an agency delivers or proposes to deliver under the authority of a licence; standardizing the rate-setting process to ensure better transparency and accountability for funds; increasing the number of unannounced inspections, developing new technology that will allow “real time” updates of when foster homes open or close; and the development of a new search feature in the Serious Occurrence Reporting and Residential Licensing Technology system that would allow placing agencies to access information: regarding the services provider, the status of the licence, any conditions on the licence and a summary of prior inspections.

## II. Overview

### THE REQUEST FOR AN INVESTIGATION

On June 30, 2016 the Office of the Provincial Advocate for Children and Youth (“Advocate’s Office”) received a call from a person requesting an investigation into Johnson Children’s Services Inc. (“JCS”), an organization licensed by the government to provide foster care to children in Ontario. The caller, who was an employee of JCS (“the whistleblower”), shared concerns about staff training, living conditions and a belief that the organization was unable to ensure the safety of both the young people who lived in the homes and the staff who worked there.

#### The Duty to Report and Other Investigations

Despite the fact that three of the young people residing in JCS homes were between 12 and 16 years of age, the caller was not aware of the legal duty to report their concerns to a children’s aid society under section 72 (1) of the legislation that was then in force, the *Child and Family Services Act*<sup>1</sup> (“CFSA”). Investigators encouraged the caller to report the concerns to the local children’s aid society and later confirmed that the concerns were reported to Dilico Anishinabek Family Care (“Dilico”).

Investigators also shared the information from the whistleblower with the Licensing and Compliance Unit of the Ontario government ministry then known as the Ministry of Children and Youth Services (“the Ministry”). Under section 13.1(4) (a) of the *Provincial Advocate for Children and Youth Act, 2007*, Investigators are permitted to disclose

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<sup>1</sup> *Child and Family Services Act*, RSO 1990 c C11 s 72(1).

information that would usually be considered confidential if it would reasonably be believed “that the disclosure is necessary to eliminate or reduce a significant risk of death or serious bodily harm to a person or group”.<sup>2</sup> The Ministry advised the Advocate’s Office that it intended to investigate the caller’s concerns.

Because the *Provincial Advocate for Children and Youth Act, 2007* prohibits the Advocate’s Office from commencing an investigation if another investigative body is looking into the same issue, at times the Investigations Unit had to delay and/or suspend its investigation into JCS pending the completion of various investigations by the Ministry, the children’s aid society and the Office of the Chief Coroner of Ontario.<sup>3</sup>

### III. MANDATE AND AUTHORITY OF THE ADVOCATE’S OFFICE

#### MANDATE

The Advocate’s Office is an independent Office of the Legislative Assembly of Ontario with the legal authority to advocate for children and youth.

The purpose and function of the office, as explained in the *Provincial Advocate for Children and Youth Act, 2007*, is to:<sup>4</sup>

- a) Provide an independent voice for children and youth, including First Nations children and youth and children with special needs, by partnering with them to bring issues forward
- b) Encourage communication and understanding between children and their families and those who provide them with services
- c) Educate children, youth and their caregivers regarding the rights of children and youth
- d) Conduct investigations and make recommendations to improve children’s aid society services and services provided by residential licensees where a children’s aid society is the placing agency

#### AUTHORITY

Investigators from the Advocate’s Office have the power to:<sup>5</sup>

- Hear or obtain information from anyone the Provincial Advocate thinks may be relevant to the investigation and make inquiries the Provincial Advocate thinks may be relevant to the investigation

<sup>2</sup> *Provincial Advocate for Children and Youth Act, 2007*, SO 2007, c 9, s 13.1(4)(a).

<sup>3</sup> *Provincial Advocate for Children and Youth Act, 2007*, SO 2007, c 9, s 16.4(1)5.

<sup>4</sup> *Provincial Advocate for Children and Youth Act, 2007*, SO 2007, c 9, s 1.

<sup>5</sup> *Provincial Advocate for Children and Youth Act, 2007*, SO 2007, c 9, s 16.1.



- Compel information and the production of documents from anyone who is able to give information relating to any matter being investigated by the Provincial Advocate, including the government, a children’s aid society, or a residential licensee
- Summon for an examination under oath anyone who, in the Provincial Advocate’s opinion, is able to give any information relevant to the investigation, including individuals from the government, a children’s aid society, or a residential licensee
- Obtain information that would ordinarily be subject to various privacy Acts

## INVESTIGATIVE FOCUS

Under the *Provincial Advocate for Children and Youth Act, 2007*, investigations undertaken by the Advocate’s Office are focused on making recommendations to improve the children’s service system.

When conducting its work, the Investigations Unit is also required to take into account the:

- Paramount purpose of the *Child, Youth and Family Services Act, 2017* (“CYFSA”) (the successor legislation to the *CFSA*) to promote the best interests, protection and well-being of children<sup>6</sup>
- Principles expressed in the *United Nations Convention on the Rights of the Child*<sup>7</sup>
- *Canadian Charter of Rights and Freedoms*<sup>8</sup>

## PUBLIC REPORTS, PRIVACY, AND FAIRNESS

Each time an investigation is completed, the Provincial Advocate is required by legislation to create a public report which must explain the reasons for the investigation and include recommendations that the Provincial Advocate considers appropriate to improve services for the children and youth within the mandate of the *Provincial Advocate for Children and Youth Act, 2007*.<sup>9</sup>

The *Act* contains specific privacy provisions that prevent the disclosure of the name or other identifying information of a young person in a public report.<sup>10</sup> In addition to

<sup>6</sup> *Child, Youth and Family Services Act, 2017*, SO 2017, c 14, s 1.

<sup>7</sup> *United Nations Convention on the Rights of the Child*, 2014, c 13, Schedule 10, s 7; 2017, c 14, Schedule 4, s 31(6), referenced in *Provincial Advocate for Children and Youth Act, 2007*, SO 2007, c 9, s 15(4)(b).

<sup>8</sup> *Canadian Charter of Rights and Freedoms*, Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982 (UK)*, 1982, c 11.

<sup>9</sup> *Provincial Advocate for Children and Youth Act, 2007*, SO 2007, c 9, ss 21.1(1), (4).

<sup>10</sup> *Provincial Advocate for Children and Youth Act, 2007*, SO 2007, c 9, s 21.1(2).

protecting the privacy of young people, the Advocate’s Office is not permitted to reveal the name or identifying information of any adult in a public report, unless the adult consents to being identified.<sup>11</sup> Therefore, in this report various individuals are referenced by a general title (for example: “Supervisor,” “Director,” “Worker” or “Foster Parent”).

The Advocate’s Office carefully considers the impact of including sensitive information in a public report and does so only when it is necessary to advance the overall objective of making recommendations to improve services for the children and youth in its mandate.

Any organization or individual who will be the subject of recommendations from the Advocate’s Office must be made aware of the recommendations before a report is released to the public and must be provided with the opportunity to respond in a manner that is consistent with section 16.1(3) of the *Provincial Advocate for Children and Youth Act, 2007*.<sup>12</sup>

## **IV. AGENCIES AND ORGANIZATIONS INVOLVED IN THIS INVESTIGATION**

### **THE MINISTRY OF CHILDREN AND YOUTH SERVICES (NOW THE MINISTRY OF CHILDREN, COMMUNITY AND SOCIAL SERVICES)**

The Ministry is the government body that oversees all of Ontario’s children’s aid societies and licensed residential service providers. This function includes issuing licences to foster care providers and conducting licensing inspections to ensure compliance with: the terms and conditions of the licence, statutory requirements found in the *CYFSA* (and formerly under the *CFSA*), regulations, and all policies, procedures and directives issued by the Ministry. Children’s aid societies are also held accountable to the legislative, regulatory and policy requirements through their contract with the Ministry and reporting requirements.

### **CHILDREN’S AID SOCIETIES AND INDIGENOUS CHILDREN’S AID SOCIETIES**

Children’s aid societies and Indigenous well-being societies are funded by the Ministry and required by law to provide the following services to children who are at risk of harm or in need of protection:<sup>13</sup>

<sup>11</sup> *Provincial Advocate for Children and Youth Act, 2007*, SO 2007, c 9, s 20(10).

<sup>12</sup> *Provincial Advocate for Children and Youth Act, 2007*, SO 2007, c 9, s 16.1(3).

<sup>13</sup> See *Child and Family Services Act*, RSO 1990, c C11, s 15(3); *Child, Youth and Family Services Act, 2017*, SO 2017 c 14, s 35(1).

- a) Investigate allegations or evidence that children may be at risk of harm or in need of protection
- b) Protect children where necessary
- c) Provide guidance, counselling and other services to families for protecting children or for the prevention of circumstances requiring the protection of children
- d) Provide care for children assigned or committed to its care
- e) Supervise children assigned to its supervision
- f) Place children for adoption
- g) Other duties assigned by legislation or regulations

At the time of the initial request for investigation, the youth residing at the JCS Thunder Bay homes had been placed by Dilico Anishinabek Family Care (“Dilico”), Anishinaabe Abinoojii Family Service (“Abinoojii”), and Tikinagan Child and Family Services (“Tikinagan”), three of Ontario’s 48 children’s aid societies and Indigenous well-being societies that provide residential services to children, youth, and their families.<sup>14</sup>

Dilico removed all youth placed with JCS after they received the information conveyed to the Advocate’s Office by the whistleblower.

### **JOHNSON CHILDREN’S SERVICES (RESIDENTIAL SERVICE PROVIDER)**

JCS marketed itself to children’s aid societies and Indigenous well-being societies as a “treatment foster care agency providing individualized services to foster children with special needs”.<sup>15</sup> The agency was licensed in 2006 by the Ministry to provide foster care. The 2006 “Approved *Per Diem* Rate Letter” sent to JCS by the Ministry describes the services to be provided by the agency. Children’s aid societies and Indigenous aid societies entered into fee-for-service agreements (“Service Agreements” and “Special Rate Agreements”) with JCS which outlined the obligations of each party in relation to a child’s placement.

JCS was granted a licence by the Licensing and Compliance Unit of the Ministry’s Central Region Office. The Central Region Office is responsible for licensing and compliance for the areas of Dufferin, Halton, Peel, Simcoe, Waterloo, Wellington and York.<sup>16</sup> JCS did not obtain — nor was the agency required by the Ministry to obtain — a separate licence to operate foster homes in locations outside of the boundaries of the

<sup>14</sup> There were 48 children’s aid and Indigenous child well-being societies in Ontario at the time of writing this report. For a current list of these societies, see the First Nations Child and Family Services at: <<https://fncaringsociety.com/child-and-family-service-agencies-canada>> and the Ontario Association of Children’s Aid Societies at: <<http://www.oacas.org/childrens-aid-child-protection/locate-a-childrens-aid-society/>>. Both Associations provide a list of their respective member societies. Both Associations provide a list of societies.

<sup>15</sup> Johnson Children’s Services Inc., *Program Description*, (2008), v 4, at 1.

<sup>16</sup> Ministry of Children, Community and Social Services, “Central Region: Area Served” (last modified 10 May 2017), online: <<http://www.children.gov.on.ca/htdocs/english/about/regions/central.aspx>>.

Central Region Office. JCS has been licensed to operate foster homes anywhere in the Province of Ontario continuously since 2006.

At the time of the whistleblower's call to the Advocate's Office, JCS was operating two foster homes in Thunder Bay and a home for one individual, over the age of 18, who was on a waiting list to be transitioned into the adult developmental service system. Prior to receiving information from the Advocate's Office about the whistleblower's concerns, the Ministry was not aware that JCS had opened and was operating homes in Thunder Bay. The residential placement for the 18 year-old was closed by JCS in July 2016 and will be referred to in this report as "the apartment". The Ministry ordered all remaining JCS homes in Thunder Bay closed in May 2017.

## V. CONTEXTUAL BACKGROUND

### THE RULES

Licensed residential services provided to children and youth in Ontario are authorized by statute and regulation. In the case of children in the care of a children's aid society, funds flow through the government to finance these services. The series of "rules" involving residential services for children in state care are intended to safeguard vulnerable children and protect them from harm.

#### Legislation

The *Child and Family Services Act* was the law that governed the operations and duties of children's aid societies, the obligations of residential service providers, and the rights of children and youth in state care during the time JCS operated foster care homes in Thunder Bay. (The *CYFSA* is the successor legislation to the *CFSA*.)

#### Regulations

Regulations are rules that hold the same force as law. Specific rules about the licensing of foster care were contained in Regulation 70 to the *CFSA*.<sup>17</sup> (The comparable regulation under the *CYFSA* is now known as Regulation 156/18.)<sup>18</sup>

Regulations under the *CFSA* required children's aid societies to fully comply with the Ministry's *Ontario Child Protection Standards (2016)* ("Child Protection Standards") when carrying out their functions.<sup>19</sup> The Child Protection Standards is the mandatory

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<sup>17</sup> RRO 1990, Reg 70, s 73(1).

<sup>18</sup> O Reg 156/18, s 119(2). It is noted that Regulation 156/18 contains a new provision requiring Foster Care Licensees to maintain policies and procedures about the way in which the care provided to children living in the Licensee's foster homes will be evaluated and monitored (this requirement did not exist under the previous Regulation 70 to the *CFSA*).

<sup>19</sup> O Reg 206/00 (repealed), ss 2–4.

framework through which child protection services in Ontario are expected to be delivered.<sup>20</sup> (This requirement remains the same under the *CYFSA*.)<sup>21</sup>

### **Policies and Procedures, Government Authored Manuals**

A policy manual known as the *Children in Care Manual*, issued by the Ontario government in 1985, remains in effect today. The Manual provides guidance to children's aid society staff in the day-to-day delivery of services to children and youth in care. The Manual outlines the roles and responsibilities of placing agencies, operators and foster parents providing care to children and youth involved with a society.

The Manual specifically states that, “[t]he placing agency has overall responsibility for the child in care, including the service the child receives from the residence in which he/she is placed,”<sup>22</sup> and that the “operator” [defined as anyone who has control or management of a foster home or children’s residence],<sup>23</sup> is responsible for ensuring that the day to day care provided to the child meets the needs of the child, and all the regulations of the *Child and Family Services Act*.<sup>24</sup>

The *Children in Care Manual* refers the reader to the *Licensing Manual* for additional information about the responsibilities of anyone who operates a children’s residence or foster home.<sup>25</sup> The *Foster Care Licensing Manual*, written by the Ministry in 2012, is intended to be “a resource and detailed reference guide” for government staff, licensed foster care operators, foster parents, and those interested in becoming foster parents.<sup>26</sup> It sets out the “minimum level of care that must be provided by a foster care licensee”.<sup>27</sup> The *Foster Care Licensing Manual* confirms that a licensee is required to comply with child welfare legislation, associated regulations, and Ministry policies and procedures.<sup>28</sup>

### **JCS Policies and Procedures**

Licensees are required to have policies in specific areas as outlined in the applicable regulations, in this case Regulation 70 to the *CFSA*. The Investigations Unit obtained a copy of JCS’s *Policies and Procedures* directly from JCS.

## **JCS EXPANSION INTO THUNDER BAY**

<sup>20</sup> Ontario, Ministry of Children and Youth Services, *Ontario Child Protection Standards (2016)* at 4.

<sup>21</sup> O Reg 156/18, ss 29–32.

<sup>22</sup> Ontario, Ministry of Community and Social Services, “*Roles and Responsibilities with Regard to the Child in Care: Children in Care Manual*” (1985) CH-0305-02.

<sup>23</sup> Ontario, Ministry of Community and Social Services, “*Roles and Responsibilities with Regard to the Child in Care: Children in Care Manual*” (1985) CH-0305-03, 1.

<sup>24</sup> Ontario, Ministry of Community and Social Services, “*Roles and Responsibilities with Regard to the Child in Care: Children in Care Manual*” (1985) CH-0305-01, 1.

<sup>25</sup> Ontario, Ministry of Community and Social Services, “*Roles and Responsibilities with Regard to the Child in Care: Children in Care Manual*” (1985) CH-0305-03, 1.

<sup>26</sup> Ontario, Ministry of Children and Youth Services, *Foster Care Licensing Manual* (2012) at 2.

<sup>27</sup> Ontario, Ministry of Children and Youth Services, *Foster Care Licensing Manual* (2012) at 11.

<sup>28</sup> Ontario, Ministry of Children and Youth Services, *Foster Care Licensing Manual* (2012) at 9.

The scarcity of residential resources for young people in northern Ontario was a common theme highlighted by professionals interviewed by the Advocate's Office during this investigation and was described as a significant and long-standing problem. Investigators were told that a chronic lack of resources often means that children are removed from their home communities in northern Ontario and placed in residential settings in southern Ontario. Even when accepted into a program in the south, after reaching the age of 18 they are sent back to their home communities where they struggle to find services as adults. Witnesses also told Investigators that some young people were not accepted by treatment facilities in southern Ontario because their needs and risk profile were considered "too high".

It is within this context that the JCS Executive Director decided to expand his operations into northern Ontario. He told Investigators that he did so after an Indigenous child well-being society suggested that JCS open homes in Thunder Bay to allow the young people to be closer to their home communities and family. His initial intention was to open foster homes that would serve young people from the north who had already "stabilized" after an initial placement at established JCS treatment foster homes in southern Ontario. However, when requests were made by Indigenous placing agencies struggling to find placements for high-risk youth, JCS began to accept young people from the north who had not been previously placed at any other JCS homes. For example, one placing agency representative told the story of a young person who had been discharged from eight homes in southern Ontario because none could manage her suicidal behavior and hospitals refused to admit her for any longer than a short-term basis. The agency contacted every residential service provider they could find, including some in the United States but, ultimately, the only agency that would accept the young person was JCS.

## CHILD AND YOUTH PROFILES

The JCS *Program Description* describes JCS as a suitable placement for children and youth who "generally have one or more special needs ADD [attention deficit disorder], ADHD [attention deficit hyperactivity disorder], FAS [fetal alcohol syndrome], FAE [fetal alcohol effects], acting out behaviors, high anxieties, and trauma due to abuse, neglect or even separation, physical and/or mental disabilities). These children require extra therapeutic and specialized support to stabilize a foster placement".<sup>29</sup>

Investigators reviewed many documents specific to the children and youth who were placed in the JCS homes. Some of the needs and challenges experienced by the children were described in the documents as: "acute suicidal ideation," "diagnosed with FAS-D, major depression and a learning disability," "uses alcohol and drugs on a

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<sup>29</sup> Johnson Children's Services Inc. *Program Description*, (2008), v 4, at 1.

regular basis,” “self-harming behaviour,” “auditory hallucinations,” and “experienced physical, emotional and sexual assault as a small child.”

Investigators also reviewed service agreements for four of the youth placed at JCS, three of which also included a “Special Rate Agreement” for a “one on one” (also known as 1:1) support worker which allows a fee for service to be charged for additional services to meet a young person’s specific needs. In one instance, the agreement authorized JCS to charge the placing agency \$13,800 per month. In each of the three Special Rate Agreements reviewed by Investigators, the needs of each of the youth was described in an identical manner: “will require a great deal of time and support to make successful transitions throughout the day,” “will require full supervision to ensure safety” and “struggles with issues of emotional and behavioural problems”.

## THE ROLE OF FOSTER PARENTS AND STAFF AT JCS

Staff roles at JCS generally fell into one of four categories: foster parent, relief staff, 1:1 staff or supervisor/management. Each foster care home had at least one caregiver who was “named” as the foster parent and several relief workers whose role was to support and provide relief in the homes.

“Foster care”, “foster home” and “foster parent” are similarly defined under both the *CFSA* and its successor legislation.<sup>30</sup> In simple terms, a foster parent is someone who provides residential care to a person who is not their child and receives compensation for doing so. The *Foster Care Licensing Manual*<sup>31</sup> describes a foster home as, “a place in which parent-model care is provided ...”<sup>32</sup> and explains that “parent-model care” refers to care that is provided by one or two people who reside in the home and provide care for children on a continuous basis. According to the manual, relief staff are permitted to work in the home “but not on a daily shift rotation basis”.<sup>33</sup>

The role of “relief” staff was not defined in the *CFSA* or in the *Foster Care Licensing Manual*, but was described in JCS internal policies as work that included babysitting assistance, weekend relief, child care, homemaker services, daycare and holiday relief on either a “planned” or “emergency” basis.

The JCS policies also identify a category of JCS employee known as “support workers” who provide “one on one support” to a child for up to 40 hours per week. Examples of the ways in which a 1:1 worker might interact with a youth were described to include tutoring, life skills and extra-curricular activities in the community.<sup>34</sup>

<sup>30</sup> *Child, Youth and Family Services Act, 2017*, SO 2017 c 14, s 2(1).

<sup>31</sup> Ontario, Ministry of Children and Youth Services, *Foster Care Licensing Manual* (2012).

<sup>32</sup> Ontario, Ministry of Children and Youth Services, *Foster Care Licensing Manual* (2012) at 13.

<sup>33</sup> Ontario, Ministry of Children and Youth Services, *Foster Care Licensing Manual* (2012) at 15.

<sup>34</sup> Johnson Children’s Services Inc., *Program Description*, (2008), v 4, at 6.

For the purposes of this report the term “supervisor” is used to refer to both those individuals with the job title of “supervisor,” and other individuals who appeared to act in a supervisory role, including one person who apparently volunteered for the organization but had significant supervisory responsibilities.

## TREATMENT FOSTER CARE

Documentation submitted to the Ministry by JCS describes two levels of care provided by the agency: “Specialized Foster Care” (Level I) and “Treatment Foster Care” (Level II).<sup>35</sup>

Under the regulations to the *CFSA*, it was left to the operator of a foster care agency (“Residential Licensee”) to determine the “type” of foster care home that will be operated.<sup>36</sup> The *Foster Care Licensing Manual* provides examples of three “types” or “classifications” of foster care, along with guidelines for the suggested level of care that would be provided in each type of residence.

The three types of foster care that are specifically described in the Ministry’s manual are “Regular”, “Supplementary” and “Special or Treatment”:

- “Regular foster care” refers to the daily provision of all elements of family life for a child who can be “easily integrated into the foster family and have their needs met by following the family’s regular routine”<sup>37</sup>
- “Supplementary foster care” describes the placement for a child with a developmental, learning, physical or emotional disability who requires resources and supports over and above basic daily care as part of a foster family’s routine<sup>38</sup>
- “Special or Treatment foster care” is a placement for a child diagnosed by a mental health professional as having a mental, behavioural or psychiatric disorder and who requires a specific treatment or management strategy to ensure their physical and emotional well-being. For example, a child in this type of home might require intensive supervision, a high level of structure, or other treatment and receive treatment from a regulated health professional (within the meaning of the *Regulated Health Professions Act, 1991*) or health practitioner (under the *Health Care Consent Act, 1996*) who are contracted by a Licensee to provide consultation and treatment to residents<sup>39</sup>

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<sup>35</sup> Johnson Children’s Services Inc., *Program Description*, (2008), v 4, at 7.

<sup>36</sup> RRO 1990, Reg 70, s 116(2).

<sup>37</sup> Ontario, Ministry of Children and Youth Services, *Foster Care Licensing Manual* (2012) at 38.

<sup>38</sup> Ontario, Ministry of Children and Youth Services, *Foster Care Licensing Manual* (2012) at 39.

<sup>39</sup> Ontario, Ministry of Children and Youth Services, *Foster Care Licensing Manual* (2012) at 39.



However, it is important to note that the *Foster Care Licensing Manual* also includes the caveat that the types of foster care described in the above examples “are not an exhaustive list or intended to encompass all possible varieties of foster care.”<sup>40</sup>

## VI. METHODOLOGY

### INVESTIGATIVE ISSUES

The following questions frame the main issues considered in this investigation:

1. Are the concerns of the caller about the JCS Homes in Thunder Bay valid?
2. Did any other concerns emerge during the course of the investigation?
3. What oversight and regulatory framework governs the operations of JCS?

### INVESTIGATIVE PROCESS

An investigative plan was developed that included examinations under oath (“interviews”) with the following individuals:

- Staff and management employed at JCS at the relevant time
- Representatives from the children’s aid societies who had placed children in the JCS homes that were the subject of this investigation
- Ministry employees with oversight responsibility for JCS

Through document review and the above interviews, Investigators also identified certain medical and mental health professionals with relevant information who were then interviewed.

The Investigations Unit asked the Ministry to provide the names of four youth who were living at JCS on the date that the whistleblower’s call was received by the Advocate’s Office, as well as the name of the children’s aid society/child well-being society responsible for placing each youth. Each children’s aid society (Tikinagan, Dilico, and Abinoojii) was contacted, advised of the investigation and asked to assist in arranging for the young people to be interviewed by Investigators. It should be noted that each agency fully co-operated with all aspects of this investigation.

### DOCUMENTS AND INTERVIEWS

The Investigations Unit sought and obtained a significant number of documents from various sources. Document requests were made pursuant to section 16.1(4) of the *Provincial Advocate for Children and Youth Act*, both at the outset of the investigation and throughout the investigative process as interviews were conducted. Specifically, the Advocate’s Office received documents from the following individuals and organizations:

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<sup>40</sup> Ontario, Ministry of Children and Youth Services, *Foster Care Licensing Manual* (2012) at 39.

- JCS
- Dilico Anishinabek Family Care
- Tikinagan Child and Family Services
- Anishinaabe Abinoojii Family Services
- Ministry of Children and Youth Services
- Thunder Bay Police Services
- A local mental health agency
- A local hospital

The employee who made the initial complaint to the Advocate's Office also provided Investigators with many documents, pursuant to the legislation.

Interviewers conducted twenty-eight audio-recorded interviews with the following individuals:

- The employee who contacted the Advocate's Office with the complaint that led to this investigation
- Five others who were employed or had been employed at JCS in Thunder Bay as relief staff, foster parents or 1:1 staff
- Three individuals who acted in a supervisory/management capacity at JCS including a representative from senior management
- Six youth who were residing or had resided at JCS on the date the investigation was initiated by the Advocate's Office
- Two Dilico Anishinabek Family Care staff
- One Tikinagan Child and Family Services staff
- Two Anishinaabe Abinoojii Family Services staff
- One emergency physician at a local hospital
- Two individuals who worked in two different community mental health organizations
- Five Ministry representatives

## VII. INVESTIGATIVE ISSUE ONE: ARE THE CONCERNS OF THE WHISTLEBLOWER VALID?

In order to determine whether the concerns of the whistleblower were valid, Investigators reviewed documents and interviewed witnesses from children's aid societies, the ministry, local police agencies and local medical and mental health services. The whistleblower shared concerns about staff training, living conditions and the safety of both children and staff.

## CONCERN 1: THE STAFF WERE UNABLE TO KEEP CHILDREN SAFE

### Verified Child Protection Investigations

JCS opened its first foster home in Thunder Bay in March 2016 and all JCS foster homes in Thunder Bay were closed in May 2017. Between March 2016 and May 2017, the local children's aid society investigated a number of child protection matters about the care children received in these homes. Many of these child protection investigations contained information that became material to the investigation by the Advocate's Office.

### *JCS Home 1*

Concerns about the limited caregiving skills of staff employed by JCS were investigated and verified by the children's aid society after a local mental health agency reported concerns about the ability of JCS staff to keep young people safe.

For example, in July 2016, a JCS supervisor called the mental health crisis line because one of the young people had barricaded herself in a bedroom and another said that she was thinking of harming herself. The mental health agency mobile response team attended at the home and found that both young people had run away from the residence. The mobile crisis team asked JCS staff to call police because they had not done so. The young people were then seen running down the street and jumping in and out of traffic. Ultimately, police attended and transported both young people to the hospital. A review of documents received from the children's aid society confirms that the mental health agency was "concerned that [JCS] is unable to protect the children and manage the behaviours".

In January 2017, one of the out-of-town children's aid societies contacted Dilico to report a number of concerns about the ability and capacity of staff at JCS Home 1. According to children's aid society records, the concerns were: JCS staff had not received any formal therapeutic foster care training, staff were not able to address the emotional and mental health needs of the youth in their care and staff could not de-escalate volatile situations. During the resulting child protection investigation, JCS employees told Dilico that they had received little formal training about how to care for the young people placed in the JCS home. One staff member said that "she has been learning as she goes along" and that any training she had received had been done on a computer.

Another child protection investigation involving JCS Home 1 investigated concerns related to basic needs not being met. Dilico found that the young person slept on the floor, used a backpack for a pillow, had no blankets, and that there was a bed bug infestation in the home. The window in the young person's room was also broken, which allowed cold air in.

Concerns were also brought to the attention of the children's aid society about a young person residing in JCS Home 1 who had serious mental health issues and had missed medical appointments. Child protection workers verified that the youth had missed a very important psychiatric appointment because JCS staff were not available to bring him to the appointment. The young person then had to wait months for a new appointment with a different specialist because the original psychiatrist was no longer available. During the course of this child protection investigation, a mental health counsellor expressed his concern that JCS staff would miss the re-scheduled appointment as well and offered to take the young person to the appointment himself. It was noted that foster home staff did not follow up with the mental health counsellor regarding appointments, even when requested to do so. The children's aid society verified concerns that the youth suffered from a mental health condition that, if not remedied, could seriously impair the child's development and that JCS was not providing services or treatment that would assist the child.

### *JCS Home 2*

In the fall of 2016, a child protection investigation followed a report that a JCS employee stayed in a bedroom and did not supervise youth in the home. Residents in the home told child protection workers that it was "easy" for them to walk out the front door and that there were times when they were alone in the home with no adult present.

The children's aid society also verified that the mental and emotional health needs of the children in the home were not being met by JCS staff. Two children were reportedly "sleeping all day in bed". In one case it was found that therapeutic treatment, supports and counselling were not being provided. In another case it was found that the child was not being taken to appointments. The children's aid society concluded that staff were not adequately trained to provide therapeutic care and observed that while one of the staff members had received training on a computer, the staff member could not provide any further information about the subject matter or content of the training.

In October 2016 a twelve-year-old resident of JCS Home 2 was brought to the Emergency Department by ambulance after she was found intoxicated at 3:36 am. The foster parent advised hospital staff that she was not able to attend at the hospital because she had other young people in the home and could not find another staff member to assist. An Emergency Duty Worker from Dilico attended the hospital and brought the youth back to the foster home. At approximately 11:00 am on the same day, the same youth was brought back to the hospital by the Thunder Bay Police because of suicidal ideation. Again, the foster parent was unable to come to the hospital because she had other youth in her care and, for the second time that day, a Dilico child protection worker had to attend at the hospital to pick up the youth.

In December 2016, the children's aid society received another report of inadequate supervision after a youth at JCS Home 2 was found in Winnipeg, two days after being released from hospital. According to the children's aid society notes, "[foster parent]

reports to having no knowledge of how [foster child] travelled to Winnipeg and her whereabouts were unknown to the foster parent.”

## **Information from Medical and Mental Health Professionals**

### *Hospital Staff*

One young person informed Investigators from the Advocate’s Office that a doctor at the local hospital told JCS employees that he would be making a complaint about the care provided in JCS homes. When the doctor was subsequently interviewed by Investigators, he explained that he was concerned about a youth who was “almost a daily visitor” at the hospital, despite being supervised by 2 staff (also known as “2:1 staffing”) 24 hours per day. The doctor advised Investigators that he could not understand how repeated overdoses and other episodes of self-harm could occur if a young person was being supervised in a 2:1 manner, and that he had said this directly to JCS staff. Although the doctor was not able to recall the response from the staff members, he did remember that he found their answers to be unsatisfactory and then reported his concerns directly to the children’s aid society. The doctor also provided examples of inappropriate conduct by JCS staff members at the hospital, including being asked to leave the hospital because they were sitting in security officer’s chairs, ordering pizza, and taking pictures of themselves in the emergency department.

The doctor then described what he felt to be the most serious incident: a young person was discharged from the hospital following a toxic Tylenol overdose and was immediately able to enter a drug store where she bought a bottle of Tylenol. She “drank” it in front of the JCS staff members who “did nothing to stop her.” According to the doctor, when asked by him why they didn’t act, the JCS staff members told him they believed that if they were to do anything to physically prevent the young person’s actions, it would constitute an assault. The doctor explained further,

I think on one of two occasions when she cut her wrists and when she overdosed, I spoke with the staff. So I was a little more aggressive—“Why are you just watching them instead of doing something?”

Q: And did anything stand out about the workers?

A: I think on the last occasion when she overdosed—I felt like the two workers, one of them seemed really upset about the whole incident — and voiced her frustration. I said, “Why don’t you do something—you’re employed to do this.” [She said,] “We’re told we cannot do anything”—because of the concerns of the Constitution. So I thought, in a way, they seemed like they were misinformed about what they could and couldn’t do. But it did seem like they were being told by their supervisors that they weren’t allowed to intervene in these certain circumstances. They were told on repeated occasions they could not intervene in these circumstances.

### *Mental Health Agency 1*

Investigators were advised by the interviewee that one of the children's aid societies that placed children at JCS had asked the mental health agency to offer training to JCS staff on de-escalation, working with borderline personality disorder, and other "tools and techniques" for recovery. Documents from the children's aid society confirm that the training did take place but, according to an email from a manager at the children's aid society to a senior management representative at JCS, the majority of JCS staff who had been expected to attend the training did not show up. This correspondence confirmed that the only person from JCS in attendance at the training was the "volunteer" supervisor.

### *Mental Health Agency 2*

Another mental health service provider, from a different agency, described his interactions with JCS staff as "poor". He told Investigators that he did receive a call back to inquiries about school, doctor's appointments and follow-up for a young person that he was working with.

### **Police Involvement**

The Advocate's Office sought and obtained information from the Thunder Bay Police Service about their involvement at JCS homes between May 2016 and April 2017. During this 13 month period, a total of 114 reports were provided by police: 51 reports represented calls for service relating to youth, 61 were follow up reports and two did not involve youth. Most calls related to missing persons (27 reports), suicidal ideation/suicide attempts (19 reports), or a combination of these two issues.

On 13 occasions police officers and JCS staff members accompanied a young person to the hospital. Six reports described situations in which police officers accompanied a young person to hospital without a JCS staff member present: sometimes the police transported the young person in the police car, sometimes a police officer accompanied the youth in the ambulance, and sometimes police followed behind the ambulance to the hospital. There were also times when a young person was brought to hospital by police and, when medically cleared by doctors to return to JCS, police had to escort the young person back to the foster home because no one from JCS attended at the hospital.

The examples below are presented to illustrate some of the other ways in which police interacted with both staff and youth at JCS:

- Police attended at one of the JCS foster homes in response to a report that a young female (not a resident) was harming herself. The young person had sent a picture to her mother showing that she was causing injury to herself and her mother contacted police. Upon arrival, police advised JCS staff members that the youth in question may be in the company of a foster child living in the home. Police went into the foster home and found both young people in the basement. The police report noted that the officers observed a "sizeable quantity of blood

droplets” around the basement. The foster youth was drinking Captain Morgan rum directly from the bottle and had a 10-inch gaping wound on her forearm. The other young person (whom police had originally been trying to locate) had a similar wound on her forearm and it was also bleeding. Police and paramedics transported both youth to hospital.

- Police were advised by a foster parent that a young person was one hour late for her 12:00 am curfew. Police were provided with a possible location to check (her aunt’s house) and found her there. The foster parent confirmed to police she had not tried to contact the youth by calling or texting her cell phone. According to the police report, a police sergeant advised the foster mother he thought she had been negligent by not attempting to locate the youth herself and calling police instead.
- Police were notified twice in one day that a youth was “missing” because the young person had not returned home at the agreed upon time. The staff person at the residence advised police she could not look for the youth as she had other youth in her care that she could not leave them alone without supervision. Police were provided with a list of places the youth might be but were unable to locate her. Police returned to the home an hour later and found the youth in the backyard of the foster home.

## **CONCERN 2: STAFF ARE ILL EQUIPPED TO SUPPORT AND MANAGE THE NEEDS OF THE YOUTH PLACED AT JCS**

The whistleblower was concerned that the skills and training of JCS staff were not adequate to meet the significant needs, nor manage the high risk behaviour, of the young people who resided in the JCS homes in Thunder Bay. This section contains information obtained from interviews with JCS staff who worked at the residences at the time of the whistleblower’s call to the Advocate’s Office.

### **Qualifications/Related Experience**

In Ontario, there are no minimum qualifications for foster parents required by law, regulation or policy.

Within the children’s services sector significant emphasis is placed on personal qualities such as an interest in children, communication skills and a willingness to learn. For example, the Foster Parents Society of Ontario website describes foster parents as:<sup>41</sup>

... individuals or couples with a genuine interest in children and a sense of community responsibility. They come from all walks of life, have a variety of

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<sup>41</sup> Foster Parents Society of Ontario, “Who are foster parents?” *Foster Parents Association Website* (22 February 2012), online: Foster Parents Society of Ontario <<http://www.fosterparentssociety.org/?p=434>>.

ethnic and cultural backgrounds and a variety of experiences with child care. Some have experience raising their own children, or have professional experience related to child rearing. Some do not have any formal experience.

Similarly, the website of a large children's aid society in southern Ontario described previous related experience as an "asset" but not a prerequisite for becoming a foster parent:<sup>42</sup>

Experience in caring for children is a definite advantage for a foster family, but you can apply to foster even if you have no specific background in child care. Love of young people, optimism, patience and consistency are essential qualities of successful foster families. A basic understanding of children's needs, as well as a willingness to learn, is also required.

The *Foster Care Licensing Manual* does not impose specific standards or requirements and, instead, provides a list of "Guidelines" for assessing potential foster parents:<sup>43</sup>

- Demonstrated ability to carry out the essential duties of parenting
- Ability to communicate adequately with a child or youth as well as the licensee
- Willingness to learn new skills and to work with the licensee and other professionals in caring for the child or youth
- Prepared to work with both the child or youth and his or her family and support the child or youth to return home where advisable
- Sensitive to and supportive of the cultural differences and varied backgrounds of children and youth in care
- Willingness to offer a commitment to a child for the known duration of his or her stay in foster care

The *JCS Policy and Procedures Manual* incorporates the above guidelines, along with a number of other considerations:<sup>44</sup>

- Be an adult (18 years of age or older)
- Have premises which are approved for the placement of foster children
- Have a reliable means of transportation
- Be financially capable of caring for the needs of a foster child
- Be able to assure a foster child an appropriate developmental environment
- Have an adequate understanding of foster care and the circumstances under which children come into care

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<sup>42</sup> Children's Aid Society of Toronto, "Welcome All Resource Parents", (2019), online: *Becoming a Foster Family* <<http://www.torontocas.ca/foster-care>>.

<sup>43</sup> Ontario, Ministry of Children and Youth Services, *Foster Care Licensing Manual* (2012) at 26–27.

<sup>44</sup> Johnson Children's Services Inc., *Johnson Children's Services Policies and Procedures*, (2011), v 6.1, at 1.



The JCS *Program Description* indicates that the agency has a “preference” for foster parents who have “degrees” in either CYW (Child and Youth Worker), CCW (Child Care Worker) or SSW (Social Service Worker). For relief and 1:1 staff, the JCS *Policies and Procedures* do not include any educational or work experience requirements. A JCS senior management representative advised Investigators that the expected qualification for these positions was a “CYW” (Child and Youth Worker) or equivalent, but acknowledged that “some staff had less than that”.

In terms of supervisory staff, JCS job postings for Supervisor for the Thunder Bay homes in 2016 identified only three requirements: (1) demonstrated knowledge, skills and abilities to work as a multi-cultural team; (2) experience working with children and families in a supportive capacity; and (3) excellent interpersonal and communication skills.<sup>45</sup>

With respect to the qualification requirements for front line staff working in the children’s services sector, the situation is not very different. As noted by a recent expert panel report submitted to the Ontario government:<sup>46</sup>

... there are currently no legislated pre-service educational qualifications for residential staff in group care settings (other than directly operated youth justice secure custody) or foster care settings. Residential services (other than youth justice custody services) can hire any person, regardless of educational credentials, who can pass a police record check for the vulnerable sector ...

Six JCS staff (foster parents, relief and 1:1 staff) were interviewed by the Investigations Unit. These individuals described their previous work experience as ranging from no previous experience at all to some experience in the children’s services sector. Three of the six staff members who were interviewed had a diploma in a social service related field and the other three had taken college courses but had not completed their post-secondary education.

Many of the staff members who were interviewed said that they had decided to work with children because they had a desire to help others. Some also said that they themselves had experienced difficult circumstances when they were younger and, because of the help they received from professionals in the field, they wanted to help others who were either vulnerable or experiencing similar challenges.

All of the JCS staff interviewed by Investigators stated that during the application process at JCS they were told that the young people were “high risk”. Some staff members also recalled being advised of this a second time during the hiring process

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<sup>45</sup> Kijiji, Jobs in Thunder Bay, “Child Care in Thunder Bay” (27 June 2016) online: *Program Supervisor – Foster Care Agency Thunder Bay* <<http://www.kijiji.ca/v-childcare-jobs/thunder-bay/program-supervisor-foster-care-agency-thunder-bay/1161684887?enableSearchNavigationFlag=true>>.

<sup>46</sup> Ontario, Ministry of Children and Youth Services, Residential Services Review Panel, *Because Young People Matter: Report of the Residential Services Review Panel* (2016) at 59.

and being told things like, “it [will] not be easy,” “there [will] be difficult cases,” and “it [will] be a lot of hard work.”

Some JCS employees felt that they were not made aware of the extent of the risk posed by some of the youth to whom they were providing care. For example, one staff member told Investigators that on her first shift, she was waist deep in a river after having to follow a young person who could not be left unsupervised. During this incident, the young person ran out of the home towards an expressway pursued by two staff members, one of whom was working her first shift while the other was working her second shift. After throwing rocks at the staff, the young person ran down a hill, below a bridge, under the expressway, and into the river. The staff member who was interviewed told Investigators that she followed the young person into the river while waiting for police to attend. Ultimately, three police cruisers arrived at the river and the youth was placed in the back of a police vehicle to be transported to the hospital.

Collectively, most of the front line staff were very new to working with high-risk children in these types of volatile situations and spoke candidly with Investigators about their concerns regarding the adequacy of both their own skill levels and those of their co-workers. A JCS staff member told Investigators that a youth, who had been diagnosed with borderline personality disorder, purchased the book *Borderline Personality Disorder for Dummies* to provide to staff to help them better understand her diagnosis. Another staff member spoke about feeling unqualified because of not being educated or trained in crisis intervention and some employees felt that they didn't bring enough experience to meet the needs of the young people who lived in the JCS homes.

The Advocate's Office also became aware of another individual who appeared to be a member of the JCS Management team. JCS staff identified her as a “liaison”. A member of senior management advised however, that this person had never been a paid employee of JCS, and refused all offers of compensation. When interviewed by Investigators from the Advocate's Office, the “liaison” referred to herself as a “consultant” and confirmed that she received no money from JCS for the services she provided, and that her activities in JCS homes were being done as “a favour”. Based on information received from documents and other interviews, this person appeared to be exercising direct supervisory authority at JCS in the following areas:

- Handling information about potential residents to the program (“admission packages”)
- Attending admission meetings
- Responding to serious occurrences
- Covering front line worker shifts
- Cooking, cleaning, and purchasing groceries for the home
- Administering medication to youth

Other JCS employees were aware that this individual was not a paid employee, but outside agencies (including placing agencies) believed the person to be acting in a supervisory capacity and noted that the individual referred to JCS staff as “my staff” during admission meetings and had access to extensive confidential admission information about the young people who were placed at JCS. Further, this individual attended formal “plans of care,” (meetings required under the *CFSA* and the *CYFSA* to plan for a child’s needs), and attended hospital and medical meetings with young people. For the purposes of this report, this person will be referred to as a “volunteer”.

Both the volunteer and JCS staff told Investigators that staff would call the volunteer during crisis or emergency situations if they could not reach the paid supervisor. The volunteer told Investigators that she described herself as a “consultant” so that people would understand, “I am not an employee and that [JCS] sometimes relies on me to do things and a consultant was the only word that I could come up with that laypeople would understand.”

The volunteer confirmed that she would receive calls from JCS staff on almost a daily basis and eventually she stopped responding to the calls. She explained that the reason for her initial involvement was twofold: (a) she was doing a “favour” for [JCS]; and (b) she knew that there was an urgent need for residential treatment homes in northern Ontario and didn’t like the idea of children from northern communities being sent to Toronto for treatment. The volunteer was involved in encouraging other agencies to “come to town”.

### **Background Checks and References**

Both Regulation 70 to the *CFSA*<sup>47</sup> and the *Foster Care Licensing Manual*<sup>48</sup> set out the expected process for the screening of foster parents, the acceptance or rejection of foster parent applicants, and the approval of foster homes. These matters are clearly the responsibility of the residential licensee (in this case JCS) and residential licensees are required to establish policies and procedures to:

- Interview potential foster parents and meet with others living in the home
- Contact character references and make a note of the comments of the referee
- Obtain statements from a physician about the general health of the applicants
- Visit the potential foster home to ensure it is suitable for the placement of a foster child
- Ensure that police vulnerable sector record checks are completed within 30 days of the first day of employment

JCS had internal policies and procedures in place that were similar to the *Foster Care Licensing Manual*, but also included a requirement that JCS “contact any previous foster

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<sup>47</sup> RRO 1990, Reg 70, s 118(1).

<sup>48</sup> Ontario, Ministry of Children and Youth Services, *Foster Care Licensing Manual* (2012) at 27.

care provider with whom applicants have been involved with in the past 10 years for a background check.”<sup>49</sup>

Investigators reviewed the foster parent files for the three foster parents who were interviewed and found no listed references for two out of the three. In the third foster parent file, references were listed and, in that instance, there was documentation in the file to confirm that references had been contacted and comments noted.

### **Orientation**

Responsibility for the training and orientation of foster parents rests with the licensed foster care agency, which is required to provide a level of training to foster parents appropriate to “meet the child or youth’s needs”.<sup>50</sup>

*JCS Policies and Procedures* stated that each foster parent was to complete at least two 10-hour individual or group training sessions prior to the placement of any child in a home in order for the foster parent to understand the “treatment components” of JCS residential care. Foster parents were also to be provided with written information on JCS policies and procedures. The orientation process indicated in the manual consisted of an individual review of policies and procedures related to cultural competency and the rights of children and youth that was expected to take place within thirty days of employment.<sup>51</sup> According to the JCS materials, the orientation of foster parents included topics such as: “roles, responsibilities, rights of parents, placing agency, child, natural family, [JCS] treatment policies, procedures and practices, administrative procedures, forms, documentation, etc.”<sup>52</sup>

Based on information obtained through interviews with front line staff and management, as well as documentation provided to the Investigations Unit by JCS, it appears that the JCS orientation package was the same for all employees and consisted of a 91-page PowerPoint presentation.

It was clear to Investigators that JCS had not implemented a formal process to ensure that new foster parents and employees received and reviewed the orientation package. One witness recalled receiving a twenty-minute “run down” about the residence and the young people who were living at the residence. This witness told Investigators that she had no opportunity to review any orientation material prior to the start of employment and was simply asked to sign a confidentiality undertaking immediately before she started work and managed an emergency situation. Another employee advised that the training package was provided to her a week after her employment with JCS had

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<sup>49</sup> Johnson Children’s Services Inc., *Johnson Children’s Services Policies and Procedures*, (2011), v 6.1, at 2.

<sup>50</sup> Ontario, Ministry of Children and Youth Services, *Foster Care Licensing Manual* (2012) at 11.

<sup>51</sup> Johnson Children’s Services Inc., *Johnson Children’s Services Policies and Procedures*, (2011), v 6.1, at 8.

<sup>52</sup> Johnson’s Services Inc., *Policies and Procedures* March 2011 Version 6.1 at 7.

started and that she did not look at it. A third staff member stated that she could not recall receiving any orientation training or materials. Some witnesses recalled receiving some orientation, but not about health and safety or 'duty to report'.

## **Training**

The *JCS Program Description* stated that the agency provided "extensive training" to foster parents and staff members and considers both to be "the primary therapists for children in care".<sup>53</sup> According to this document, foster parents were required to complete a professional therapeutic course at a recognized college within one year of their employment at JCS. Further, *JCS Policies and Procedures* stated that 80 – 100 hours of training was provided to foster parents, relief workers and Child Youth Workers (CYW's) every year. The agency was also to provide first aid & CPR courses (or courses deemed equivalent by JCS).<sup>54</sup> Training for foster parents was described in *JCS Policies and Procedures* as occurring monthly.<sup>55</sup>

In addition to the orientation slide deck described above, the Advocate's Office was provided with additional slide decks on the following topics: Treatment Foster Care Program Training Module #1; Treatment Foster Care Program Training Module #2; Treatment Foster Care Program Training Module #3; and a three-day Evidence-Based Treatment-Multidimensional Treatment Foster Care Training Module.

The volunteer told Investigators that she did not review any of the policies and procedures or training materials that JCS employees were expected to review. Investigators noted that the volunteer often provided advice and direction to other staff members during crisis situations and serious incidents and was also in attendance at most plans of care for the children and youth residing at JCS.

Each of the six staff who were interviewed reported that there was no training provided at the beginning of their employment, nor were there any opportunities for on-going training specific to the needs of the youth in their care. None of the staff attended the three-day Evidence-Based Treatment Multidimensional Treatment Foster Care Module referred to above. All but one employee described training and orientation as consisting of a cursory review of documents on a computer or iPad. Three staff members could not recall having seen any training documents. Only one staff member remembered seeing the 91-page slide deck, but told Investigators that she did not know how to use the modules in slide format.

Although Investigators were told by one of the supervisors that foster parents and staff would "sign off" upon reviewing the training material, none of the three foster parent files reviewed by Investigators contained any documentation to indicate that training had

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<sup>53</sup> Johnson Children's Services Inc., *Program Description*, (2008), v 4, at 1.

<sup>54</sup> Johnson Children's Services Inc., *Program Description*, v 4, (2008), at 7–8.

<sup>55</sup> Johnson Children's Services Inc., *Program Description*, v 4, (2008), at 8.

been completed — except for a signed document confirming that staff had read and reviewed the duty to report requirements under the *CFSA*. The only employee who attended a “training session” described a one-time training delivered by JCS senior management to a foster parent, supervisor, and 1:1 staff in which participants read the policies and procedures manual together. Finally, all staff interviewed reported that they had not received any first aid/CPR training or de-escalation training while they were employed at JCS.

### **“Supports” to JCS Employees**

The *JCS Program Description* describes four “supports” from JCS available to children and foster parents, two of which are described as follows:

- Regular training sessions for the foster parents and staff with a psychologist/psychotherapist
- Therapy sessions (weekly or bi-weekly, individual or group) for the children on an as per need basis, as well as sessions available for the foster parents to better understand and work with difficult behaviors displayed by a foster child in their care

Based on the information received by the Advocate’s Office, including documents and interviews with JCS employees, Investigators concluded that the training and therapy sessions described above were not provided to any of the foster parents or other staff working in the homes.

### **Medication Orientation and Training**

JCS provided the Investigations Unit with a 47-page slide deck for orientation and training on the administration of medication by JCS employees, which generally uses the same language as found in the *Foster Care Licensing Manual*. However, the JCS slide deck shows that JCS further required its staff to receive “up to date” training from a qualified instructor, pass the course, attend an in-class practicum and “complete all supervised medication passes” before being authorized to administer medication to children. The JCS slide deck also refers to a “Medical Coordinator,” although an individual in this role was not identified to Investigators.

Investigators confirmed that none of the JCS employees who were interviewed had ever attended an in-class practicum nor completed “supervised medication passes”.

Staff interviewees also provided information that raised several other concerns:

- Administration of medication was not documented properly
- No policies were in place to address situations where a youth refused to take medication
- One youth was provided an entire month’s worth of medication all at once
- There were inconsistencies in the way individual staff members administered medication

- Medication Administration Record Sheets (“MARS”) were sometimes not available at a residence and/or were inconsistently used
- There were two different Medication Administration Record Sheets for the month of June 2016 (one provided by JCS and one provided by the whistleblower) which contained contradictory information about the administration of medication to children

One staff member told Investigators that on her first day working in the residences she was expected to administer all medications to children, which include psychotropic medications (defined as “medications prescribed to affect mood, mental status or behaviour”),<sup>56</sup> without having the opportunity to review the orientation materials. This individual stated that she was comfortable administering medication because of her previous experience in other employment situations and not because of any orientation or training provided by JCS.

Investigators were also told that sometimes staff would have to create their own Medication Administration Record Sheets, or document the dosage and time in a communication book. One staff member voiced concern to Investigators about missed dosages and other JCS employees using a youth’s medication from a different date if medication for a specific day was missing. This individual described the medication administration process as “improvised” and “messed up”.

Another staff member was concerned that a JCS employee did not want to wake up a child to administer medication because it would be easier if the child stayed asleep and that there was not enough food in the residence for a young person to take any medication that was required to be taken with food.

During interviews, a number of staff members referred to “daily logs” that were kept but, JCS only provided records for the month of June 2016. As a result, the Advocate’s Office was unable to verify the number of instances of missed medications or medication errors during the relevant time period. A JCS senior management representative told Investigators that under the existing foster care licensing requirements, there was no requirement for JCS to keep daily logs. Indeed, the *Foster Care Licensing Manual* makes no mention of daily logs. In contrast, the Ministry’s *Children’s Residential Licensing Manual* for staff-model group homes requires a medication record to be kept of all medication given to each resident that documents the name of the child receiving the medication, the type of medication, the period for which it is prescribed, when each dose is given or taken, and who administers the medication.<sup>57</sup>

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<sup>56</sup> Ontario, Ministry of Children and Youth Services, Ontario Expert Panel, *Standards of Care for the Administration of Psychotropic Medications to Children and Youth Living in Licensed Residential Settings: Summary of Recommendations of the Ontario Expert Panel*, (February 2009) at 1.

<sup>57</sup> Ontario, Ministry of Children and Youth Services, *Children’s Residence Licensing Manual* (2007), s 3.3.

### **Duty to Report Training**

The orientation and training PowerPoint files created by JCS contain information about the “duty to report” obligations, including the ongoing duty to report under section 72(2) the *CFSA*. Most of the JCS employees who were interviewed did not recall receiving any information about the “duty to report”. Perhaps most significantly, the whistleblower who made a complaint to the Advocate’s Office was unaware that she had duty to report her concerns to the children’s aid society. As noted above, it was the Advocate’s Office who encouraged the caller to report the information to both the children’s aid society and then brought the information to the attention of the Ministry after receiving the whistleblower’s call.

Further, in two interviews with JCS employees, Investigators were told that other employees used cocaine and may have been under the influence of drugs while in the home but that this information was not reported to a children’s aid society at the time that concerns arose. The Advocate’s Office reported these concerns to the children’s aid society immediately after receiving this information from interviewees. The children’s aid society later advised the Advocate’s Office that their investigation did not confirm that cocaine was being used by any caregiver in a JCS home.

As described earlier in this report, a doctor at a local hospital and staff at a mental health agency both reported concerns to the children’s aid society that JCS staff were not properly trained to meet the needs of the children in their care and, indeed, two child protection investigations involving JCS in 2016 and 2017 found that JCS staff were not able to provide therapeutic care and had received little formal training.

Ministry licensing records also confirm that concerns about the administration and documentation of medication at JCS and the lack of staff training, were identified by the Ministry in both May 2016 and May 2017.

### **CONCERN 3: GENERAL LIVING CONDITIONS**

The whistle blower was concerned about the general living conditions in some of the JCS Thunder Bay homes and the impact this had on the children who lived there. This section contains information obtained primarily from interviews with young people and JCS staff who lived or worked at the residences at the time of the whistleblower’s call to the Advocate’s Office.

#### **Home Conditions**

There were few specific rules in Regulation 70 to the *CFSA* about the physical environment of a foster home where children are placed. Legislation and regulations at the time were largely silent on this issue except on matters relating to bedrooms (no bedrooms without windows, no bedrooms in unfinished attics, basements, stairway halls or in a building detached from the foster home), mattresses (clean mattress and



bedding), and sleeping arrangements (no sharing rooms with adult couples, adults of the opposite sex or, if the child is over six, other children of the opposite sex).<sup>58</sup>

The *Foster Care Licensing Manual* includes both “Requirements” and “Guidelines” that address living conditions. In terms of “Requirements”, the licensee must ensure that the home:<sup>59</sup>

- a) Has designated spaces for informal living, dining, food preparation and storage, and separate rooms for sleeping and bathing
- b) Is equipped with a means of maintaining a supply of heat to habitable rooms
- c) Is in a condition free of hazards to physical safety and health
- d) Has all firearms and weapons stored unloaded, with the trigger lock on and inaccessible to children or youth at all times. Ammunition must be stored in a locked container, separately from firearms. Firearms must also be registered as required by federal legislation
- e) Complies with all relevant municipal by-laws as well as all rules, regulations or directions for the local Board of Health or the Medical Officer of Health
- f) Meets all requirements of the Fire Code

The “Guidelines” suggest: that furnishings, fixtures, and equipment such as appliances are safe, clean, in good repair and appropriate for the ages and developmental stage and conditions of children or youth to be placed (e.g. safety locks, hazards out of reach, toxic materials in locked cabinets, etc); that general housekeeping standards are consistent with community norms; that cleaning materials are properly identified, labelled and inaccessible to children; and that garbage, refuse, and other wastes are disposed of in such a way as to not constitute a health hazard.<sup>60</sup>

Investigators attended at the two foster homes in Thunder Bay in September 2016 but did not have the opportunity to see the “apartment”, as the youth had been removed from the program two months before.

One of the concerns initially reported in the whistleblower’s phone call to the Advocate’s Office, was that the apartment did not have a working stove or oven for meal preparation. This was confirmed by other witnesses during the investigation. The young person also stated that she had to use her own personal money to purchase meals, a fact confirmed by JCS staff. Investigators were also told that the young person had sometimes offered to pay for staff members’ meals or provide gas money so staff would drive the youth to various places. It was not clear to Investigators whether any JCS employee had accepted the young person’s money.

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<sup>58</sup> RRO 1990, Reg 70, s 119.

<sup>59</sup> Ontario, Ministry of Children and Youth Services, *Foster Care Licensing Manual* (2012) at 33.

<sup>60</sup> Ontario, Ministry of Children and Youth Services, *Foster Care Licensing Manual* (2012) at 34.

The young person and JCS employees told Investigators about bloodied clothing being placed in garbage bags in the staff office without being washed and causing an “unbearable” smell. One staff member told Investigators that when she was hired she noted that the kitchen floor had not been mopped and that fecal matter had leaked around the toilet. This staff member further described having to clean a bathroom that was covered with blood and vomit. Both the young person and JCS employees told Investigators that there was no “petty cash” in the apartment to allow staff to purchase tokens for the token-operated washing machines in the apartment building. A representative from a children’s aid society told Investigators about “a big pool of blood” and “smears” of blood in the apartment. According to one of the child welfare workers who was interviewed, “I hadn’t seen anything so bad before. ... None of us had seen anything like this before.” Similarly, information obtained from documents in the children’s aid society files indicate that on July 6, 2016 a young person at one of the foster homes told a children’s aid society worker that the younger girls in the home did “not know how to take care of their menstrual mess, and there is blood all over the bathroom as a result.”

Ministry documents indicate that in response to questions about safety in the home, a youth at one of the JCS foster homes told a Ministry Licensing employee that staff from the home used to leave pills and knives out on the counter.

This was not the first time that concerns had been raised about the living conditions of a JCS home. In June 2015, Ministry Program Advisors inspected one of the JCS homes in southern Ontario and identified the following concerns: the roof “was in a bad state,” there was water damage to the ceiling in the kitchen, the shower floor in the upstairs bathroom was in disrepair, the upstairs bathroom had “wires and light fixtures hanging out of the ceiling,” the fridge and microwave needed to be either fixed or replaced, and that an inspection would be required to determine whether there were rodents in the home. A JCS Senior Management Representative was directed by the Ministry to address the above noted concerns by June 10, 2015. JCS senior management advised the Ministry on June 8, 2015 that due to the extensive renovations that needed to be done at the home, the youth residing there would be moved “to the personal home of the foster parent” after a home assessment was completed.

## **Food**

The whistleblower expressed concern that the only food in one of the JCS homes in Thunder Bay was rotten or expired and indicated that, even after reporting this to JCS senior management, there was still no food in the home one week later.

Ministry documents show that during the Ministry’s investigation in July 2016, a young person residing in the home told Ministry staff that she had to travel to one of the other JCS homes to eat her meals.

JCS employees told Advocate’s Office Investigators that on two occasions relief staff discovered there was not enough food in the home to feed breakfast to a young person

living there. In the words of one employee “it was like waking up and eating out of a neighbour’s garbage can”. One of the young people interviewed told Investigators that she was fed Kraft Dinner every night by one foster parent, but that when a new foster parent moved in, she started to eat “real food.”

Investigators noted that earlier concerns about food were recorded in children’s aid society case notes that were obtained as part of this investigation. On July 6, 2016 a youth placed at one of the foster homes told child protection workers that there was “rarely food in the house.” Concerns about lack of food in the home were also raised during a child protection investigation interview that occurred in March 2017, during which a young person stated that there were “no groceries or decent food” in the home.

Investigators confirmed that lack of food in JCS homes had come to the attention of the Ministry before the call was received from the whistleblower. Ministry documents show that in June 2015 a foster parent called the Ministry and raised a concern about the availability of food in in one of the JCS homes located in southern Ontario. The caller in 2015 told the Ministry that: (1) there was not enough food for youth; (2) the foster parent was not given enough money for groceries; and (3) the foster parent had to bring food from her own home into the foster home to feed the children.

In response to this earlier complaint, Ministry Program Advisors conducted a home visit and met with both the foster parent and JCS senior management representatives. Ministry staff inspected the home and, among other things, found “minimal food in the fridge.” The JCS senior management representative was then directed by Ministry staff to purchase food and email a copy of receipts for the food to the Ministry office by the end of that day (June 3, 2015). Ministry records indicate that on June 5, 2015 a grocery receipt dated June 4, 2015 in the amount of \$40.82 was provided to the Ministry office by email. Ministry records further indicate that the JCS senior management representative was then told by Ministry staff that the amount was not sufficient and more food must be purchased. There is no record of any additional follow up by the Ministry on this issue after June 2015.

## VIII. ADDITIONAL CONCERNS THAT EMERGED DURING THIS INVESTIGATION

### FINANCIAL TRANSACTIONS & FEE-FOR-SERVICE

#### ***Per Diem Rate***

Investigators found that there was confusion about the base daily rate (“*per diem*” rate) that JCS was permitted to charge placing agencies. Some Ministry witnesses suggested that there were two approved rates: a rate of \$133.37 per day (effective 2006) and a second rate of \$158.50 per day (effective 2010). Investigators reviewed Service Agreements that were in place between JCS and placing children’s aid societies for 4 different young people, all of which showed an agreement for an entirely different *per diem* rate: \$160.00 to be paid for each youth per day.

The Ministry sent JCS an “Approved *Per Diem* Rate Letter,” dated June 2010, which stated that the “interim rate [of \$158.50] will be reviewed within one year before a firm rate is established,” and that this letter was to be “used... with placement agencies, along with a detailed program description and fact sheet outlining the specific details of what is included in the *per diem* rate, as confirmation the rate is approved”. Ministry witnesses acknowledged to Investigators that the “interim rate” had never been reviewed by the Ministry. Further, the Ministry was unable to produce any documentation or provide any witness to explain the basis for the rate increase in 2010, or why it was approved at that time.

Information about how *per diem* rates are set was provided by a Ministry representative:

The [foster care agency] would be required to submit an application to the regional office, request the rates with corresponding budgets and program descriptions, clearly describing the corresponding programs and services to be included within each separate rate. Placing agencies that have either placed where the new rate is being requested in a [foster care agency] or are likely to place with the [foster care agency] would be consulted. In the case of a brand new [foster care agency], I would have to decide who I was going to consult with, they would have to tell me who they think might place with me. And I would consult with those placing agencies.

In the case of JCS, I would go back to the placing agencies and say, “You know, they want to charge this additional rate. This is what they would be including...” and I’d be looking at placing agencies to say, “We’ve been asking him to do this,” or “Yes, I support this,” for whatever reason. So in either case we would do a review of the budget and we want to determine that the [new] rate would be warranted.

It is important to note that the Ministry does not provide any direction, by legislation or otherwise, as to how a foster care agency spends the money it receives. A statement to

this effect is contained in both the 2006 “Approved *Per Diem* Rate Letter” and the 2010 “Approved *Per Diem* Rate Letter” that were sent by the Ministry to JCS, “The Regional Office is not directing your allocation of revenue on a line by line basis. Provided licensing standards are met, you may choose to allocate accordingly within the funds generated.”

According to both the foster parents and JCS senior management representatives, JCS foster parents were not paid an hourly rate but instead received \$60 per child from the \$160 *per diem* for each day worked. It was then up to the foster parent to determine, in their own discretion, how much of the \$60 they would spend on each youth for items such as groceries and personal hygiene products.

Several staff members (including foster parents and relief staff) spoke about foster parents paying staff who were not foster parents to cover their shifts. Investigators were told that relief staff would be paid \$14.00 per hour if they worked their own shift and \$10.00 per day if they covered a ‘foster parent shift’. One foster parent explained that when she was working full time outside of her foster parent role, a non-foster parent staff person would cover her ‘shift’ and she would split the foster parent *per diem* with the non-foster parent staff who covered her ‘shift’ based on the hours worked.

A Ministry representative advised Investigators that ‘foster parent shifts’ and ‘regular shifts’ were something to be worked out between the foster parent and operator of the foster care agency and, if a foster parent needed additional help in the home, the expectation would be that payment for staffing would not come out of the foster parent’s *per diem*. A senior management representative stated that the expectation of JCS was that if a child was in the home, then a staff person needed to be in the home at all times.

### **Special Rate Agreements**

In addition to the base *per diem* rate, JCS also received additional money through what is known as a “Special Rate Agreement”.

As explained by one Ministry witness:

The difference between a *per diem* and a special rate is that *per diem* can allow them to provide more staffing across the floor, more supports and services to a number of kids rather than having one special rate applying to one kid.

The 2010 “Approved *Per Diem* Rate Letter” sent to JCS by the Ministry clearly addresses the intention that an increased *per diem* rate would limit the use of Special Rate Agreements:

This rate is designed to meet the children’s needs, thus limiting Special Rate Agreements for exceptional circumstances which the placing agency feels requires additional short term resources above and beyond what is included in the *per diem* rate.

At the beginning of this investigation, the Advocate's Office was not made aware of the fact that JCS was using Special Rate Agreements, because there were no Special Rate Agreements included in the documents provided to Investigators by JCS. Subsequently, one of the placing agencies provided the Advocate's Office with their copy of a Service Agreement that included a Special Rate Agreement relating to the provision of "one-to-one support" and "one-to-one attention" for the young person who was living in the "apartment". This special rate agreement provided for a monthly payment to JCS of \$1360/day for services provided to this youth (\$1200/day more than the *per diem* rate).

After reviewing the new document and speaking with a senior JCS representative, Investigators confirmed that the Special Rate Agreement was actually for 2:1 support for the young person and JCS was charging the placing agency \$25/hour per staff (x2) for each twenty-four (24) hour period, plus the initial daily *per diem* of \$160.

However, Investigators noted that despite the 2:1 24 hour/day staffing, for which the placing agency was paying \$1360 per day (approximately \$40,800/month):

- The youth placed in the apartment, as well as JCS staff, told Investigators that the youth was paying for her own meals using her own debit card (even though the cost of food was to be included in the *per diem*)
- There was reportedly no money in the home for laundry or recreational activities with the youth
- JCS staff were seeking reimbursement for expenses for taxi/travel costs associated with taking the youth to the hospital and the staff working with the youth were not being compensated for their mileage with the youth
- The residence did not initially have a functioning stove or oven
- The residence was not clean

When asked about the frequency of Special Rate Agreements by JCS, a senior management representative confirmed that all youth placed at JCS were placed on 1:1 staffing and all placing agencies were aware that paying for 1:1 staffing was required in order to support a placement for youth with high needs who presented with high risk behaviors. The JCS representative could not recall a time in which a young person had been taken off 1:1 support while residing in a JCS home.

In reviewing the invoices sought and obtained from the placing agencies, Investigators noted that, in the case of one youth (not the same young person described above), JCS received a total of \$13,800 per month (\$4800 based on the \$160/ day *per diem*, plus \$9000 for 12 hr/day "one-on-one support").

### **1:1 Support**

It appeared to Investigators that there was significant confusion among the various agencies as to the meaning of "1:1 support".

In an interview with Investigators and a senior management representative from JCS, the following exchange occurred:

Q: And if you had a one-to-one staff for a youth, what kind of services or what would that look like for a youth?

A: They're supposed to be doing programming with the youth. Like hanging out with them, doing community activities, working on their homework, working on projects, you know, kinda keeping them stabilized in the program.

Q: So if there is a one-to-one for a youth. Would that be specific to that youth or would they be working with multiple youth?

A: Some of them work directly with one youth. Some of them work with multiple youths. It all depends, depends on what is going on in that home, like a two-to-one ratio. Sometimes we have one worker to one youth. It depends on the child.

A children's aid society representative described a similar understanding of the kind of activities a 1:1 staff person would engage in with the youth. This individual was concerned that there was a lack of transparency as to when the workers were engaging with the young people and what the agency was paying for:

My expectation would be that the kid would get off school, is safe at 3:30 or 4:00, so now a one-on-one worker is there and they're doing something with the child that brings that kid enjoyment, is beneficial or teaching them in some capacity ... Take them to that program, take them somewhere and be productive with them.

We were getting billed like 24 hours a day one-on-one and it was just like a little blurb and I [thought] well, that sounds just like the foster parents watching the kid, that doesn't sound like a one-to-one worker to me. So I had gone down to them and said this is what we need as an agency ... if there are one-to-one hours, I want to know what the kid did from 7:00 – 8:00. What was that one hour consisting of?

... I was getting to the point where I was frustrated with it; it's like ok, I'm trying, I want to know what we're paying for and if we're doing one-on-one that's fine. But I want to see it, right? It has to be documented so we know exactly what we are getting.

When Ministry representatives visited the JCS homes in Thunder Bay in May 2017, they observed communication between staff that was recorded in log records and suggested that staff had interpreted the role of a 1:1 staff person as having to check on a young person every fifteen minutes. The Ministry then documented the following concern, "The 1:1 staff seemingly had no direction as to their purpose or responsibilities."

Prior Ministry licensing reviews had also raised questions about whether 1:1 staff at JCS fully understood their roles and whether the hours worked reflected expectations.

For example, in May 2016, the Ministry amended the JCS licence to include the following condition:

- Ensure all staff are aware of their roles with respect to youth who have a 1:1 staff; clearly record this information on a daily log available to placing agencies and the Ministry as requested

In August 2016, the Ministry added another condition:

- Every month, starting September 15, 2016, JCS provide the Ministry with a schedule showing the hours a foster parent is in the home and the hours a staff is working in the home; the schedule is to clearly outline when a foster parent is on relief and the staff covering that relief; the schedule should clearly outline when a staff in the home is working 1:1 with a child/youth that is being paid by the placing agency; the schedule should show that there is continuous care at all times. [emphasis added]

Ministry witnesses agreed that responsibility for enforcement of the terms of a Special Rate Agreement and the nature of 1:1 support for young people rested with the placing agency. Investigators were told that when concerns were either reported to or identified by the Ministry through a complaint or because of an investigation, then the Ministry would flag the issue with the placing agency for follow up.

Placing agency representatives, however, characterized the capacity of a placing agency to monitor and enforce Special Rate Agreements for high-risk children (both in terms of transparency and on-going cost), as a problem that extended beyond JCS:

We're at the mercy of these agencies. You know, we review it, we grumble about it ... what are the specific needs, we need to make sure it can be justified but it's for her safety, so we end up paying for these things.

### **Were the Thunder Bay JCS Residences “Group Homes” or “Foster Homes”**

There was concern among children's aid societies, young people, and community agencies about whether the experience of the children and youth in JCS homes was the “foster home” experience that had been promised. The distinction is important, both in terms of the lived experience of the children and youth who are placed in licensed residential services and the level of oversight available through legislation, regulation, and the policies and procedures of the Ministry.

As one young JCS resident explained to Investigators:

When I walked in and they told me it was a foster home, I kind of felt comfortable. But then there was a lot of staff so I knew it wasn't a foster home and I felt disappointed.

Another young person put it this way:



A foster home is with the foster parents and not people coming in and out. A person who stays there and keeps us. I expected a foster parent. But there were people coming in and out.

A children's aid society representative spoke to the confusion surrounding the nature of the JCS residences in Thunder Bay, "Most of the time, we refer to it as a group home setting. But, I'm aware that it was a foster home ... it was labelled as a foster home but operating sort of as a group home."

Investigators confirmed that there were six different foster parents at one JCS foster home over a ten-month period and four different foster parents at another foster home over a six-month period. Investigators were told that there was no foster parent at all in one of the homes for approximately one month, and daily care was provided by JCS staff working in shifts. According to a JCS senior management representative, "We went through a roster. ... We had a whole bunch of people that we had to weed out all of the time."

Investigators concluded that 'foster parents' and 1:1 staff all worked interchangeably among the three residences operated by JCS.

There are two components to the definition of foster home in the *Foster Care Licensing Manual*: (1) "a parent modelled home where one or two persons residing in the home provide care for the children/youth on a continuous basis"; and 2) Relief staff may work in the home, "but not on daily shift rotation basis". However, as one Ministry representative told Investigators,

... across the region are some homes that are more run like a *staff-modelled foster parent home* ... there's no real guideline as to what you can or cannot do.

Another Ministry witness told Investigators that the criteria used in determining whether an individual was a "foster parent" and "continuous caregiver" included whether or not the foster parent's primary address was the foster home, the address of the foster home was listed on the foster parent's driver's licence, the foster parent was at the foster home most of the time, and the foster parent celebrated holidays with the foster children.

As noted above, JCS was licensed by the Ministry to provide residential services as a foster care agency. All residential care licences are issued with a set of standard terms and conditions. Additional terms and conditions may be added by the Ministry to address specific concerns that may arise. In May 2016, even before the Ministry was aware that JCS was operating homes in Thunder Bay, the JCS licence was amended, in part, because the Ministry wanted JCS to take steps to "mak[e] the home [in southern Ontario] feel more like a foster home (which it is) rather than a group home".

When the Ministry followed up on the concerns reported by the whistleblower in July of 2016, one of the foster parents in the Thunder Bay homes told the Ministry that the

home was not her own, her driver's licence indicated a different residence, and utility bills were not in her name. The foster parent also said that she returned to the residence where her husband lived from time to time. According to Ministry records, it was noted that, "She was not definitive as to the amount of time she spends at [address of residence] but appears to be the main caregiver".

In the second JCS residence investigated by the Ministry, the "declared foster parent" advised Ministry Licensing staff that she had resigned as a foster parent on May 9, 2016 and Ministry notes indicate that, "[She] is rarely at the home and doesn't sleep there much as she works full time." One of the young people living in the home advised Ministry representatives that the [declared foster parent] was not the foster parent, and named two other JCS staff who usually work with her.

Similar information was obtained by a children's aid society, in January 2017, during a child protection investigation. One of the 'foster parents' told child protection workers that she went home to her private residence each night to record the "notes" about youth in the home. In February 2017, the same 'foster parent' explained that she had another full-time job and only worked evenings at the foster home where she was considered to be the designated 'foster parent'. The child protection worker noted that another staff person regularly worked days from Monday to Thursday, and two other staff worked the midnight shift. Another staff person working in the home advised child protection workers that, in addition to the 'foster parent', there were two JCS employees working regularly scheduled shifts in the home during the week.

The Ministry returned to the JCS foster homes in Thunder Bay in May 2017, and notes from the unannounced inspections of two of the foster homes indicated that the 'foster parent' had a "family home elsewhere". At the third JCS residence it was also documented that the 'foster parent' had "another home elsewhere".

Another source of confusion about whether JCS homes were operating as foster homes or group homes may be attributed the letters issued by the Ministry in 2006 and 2010, which JCS was instructed by the Ministry to provide placing children's aid societies when negotiating a placement. The 2006 Ministry letter refers to JCS as a "Treatment Foster Care Program" and the 2010 Ministry letter refers to JCS as an "Intensive Services Parent Model Group Home". [emphasis added]

Ministry witnesses told Investigators that the characterization of JCS as a "Parent Model Group Home" was an error and that the second rate approval letter in 2010 should have described the agency as a foster care program instead of a group home. This conversation clarified that typically there would have been only one rate approval letter, and that the 2006 letter should have been revised in 2010 to include the second approved rate of \$158.50. It is common for OPRs to have more than one rate differentiating between different levels of service. Again, at this time, there is no explanation for the existence of the second rate letter.

## IX. THE SYSTEM OF OVERSIGHT

### GOVERNMENT LICENSING PROCESS

Foster care agencies, such as JCS, or anyone seeking to provide foster care to three or more children, are required to obtain a licence to provide residential care from the government. As described in the *Foster Care Licensing Manual*, the licensing process is intended to be “a systematic means of assessing whether or not a basic level of care and safety is being provided to children and youth by a foster care licensee”.<sup>61</sup>

As part of the *per diem* rate setting aspect of the licensing process, JCS was required to provide the following information to the Ministry: (a) someone from the agency had the formal education and experience to operate the proposed program, (b) the program was financially viable, and (c) the program itself was viable.

To establish program viability, a residential service provider must provide a statement that indicates program goals, the services to be provided, the population of children and youth to be served, a demonstrated need for the service, whether emergency admissions are permitted, and the qualifications of the staff who will be hired to facilitate the program.<sup>62</sup>

In this case, Investigators were told that as part of the *per diem* rate setting and review processes, Ministry practice is to canvas whether or not placing children’s aid societies see a need for the type of program proposed by a residential service provider. However, there is no objective standard in legislation, regulation, or Ministry policy that determines what constitutes a “treatment foster home” or an “intensive services parent-model group home”, and the Ministry is not required to assess the quality of the “treatment” that is paid for by placing agencies and delivered to children in residential care.

Agencies that hold a licence issued by the government are required to be in compliance with legislation, regulations, and policy requirements issued by the government, and/or other relevant legislation.<sup>63</sup> Foster care agency Licensees are also required to meet “Standard” Terms and Conditions, and any “Specific” Terms and Conditions added to a licence related to issues with compliance. The *Foster Care Licensing Manual* confirms that the government maintains overall responsibility for licensing, enforcement and compliance with the rules.<sup>64</sup>

A licence allows a licensee to operate for a specific period of time — up to a maximum of one year. Through the annual licensing process, which includes reviewing documentation and interviewing the employees and young people placed at the foster home, foster care licensees can have additional terms and conditions applied to their

<sup>61</sup> Ontario, Ministry of Children and Youth Services, *Foster Care Licensing Manual* (2012) at 8.

<sup>62</sup> Ontario, Ministry of Children and Youth Services, *Foster Care Licensing Manual* (2012) at 21.

<sup>63</sup> Ontario, Ministry of Children and Youth Services, *Foster Care Licensing Manual* (2012) at 9.

<sup>64</sup> Ontario, Ministry of Children and Youth Services, *Foster Care Licensing Manual* (2012) at 8.

licences if there is “non-compliance” with legislation, regulations, policies, directives, or other imposed conditions. Licensing staff employed by the government use a tool, known as the Foster Care Licensing Checklist, as part of the assessment process.

Licensing and Compliance staff are only required to interview a small percentage of the staff, foster parents, and children and review a percentage of the files when conducting the annual review of a foster care agency. This process differs substantially from the licensing process for children’s residences (group homes) in which every home is inspected and every home requires a licence. As one Ministry witness explained,

When you licence a foster care agency, it’s the agency that’s being licensed and the checklist is dramatically smaller than a group home. ’Cause for a group home, you’re going in. It’s the site. It’s everything on site. All of their documentation, policies and procedures for every single place. Foster care, you’re doing a random sampling of foster homes. You’re not going into every single foster home.

According to the formula described in the *Foster Care Licensing Manual*, Licensing staff will usually randomly select 10% (with a minimum of 2 selected) of the foster homes operated by the agency OR 10% of the homes in a specific geographic area. In either case, the review consists of an interview with 10% of the total number of foster parents and youth (with a minimum of 2 selected) and a review of 10% of the total number of files associated with the homes (with a minimum of 2 selected). Licensing staff are permitted to review above this standard if they feel it is warranted.<sup>65</sup>

Three types of licences to provide residential care may be issued by the government: (1) Provisional; (2) Regular; (3) Regular/Provisional with Terms and Conditions. Provisional Licences are usually given in cases when a licence is granted for the first time or at renewal where the licensee needs more time to meet requirements. Regular licences are granted if the licensee is in full compliance.

Ministry witnesses characterized the government approach to compliance as one of “progressive discipline”. All licences are issued with a set of standard terms and conditions. Additional terms and conditions may be added that are specific to the foster care services provided and/or if non-compliance or repeated non-compliance with conditions are identified. If a term or condition is not complied with, there is a potential for the government to suspend, revoke or refuse to issue a licence.<sup>66</sup> When non-compliance is noted, it is the licensee’s responsibility to address the area in which non-compliance was identified. Investigators were told that the Ministry relies on a licensee to simply confirm with the Ministry in writing that the non-compliance has been corrected and that the issue has been addressed. In addition to annual reviews, the Ministry can investigate complaints by a foster parent or anyone else.

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<sup>65</sup> Ontario, Ministry of Children and Youth Services, *Foster Care Licensing Manual* (2012) at 144.

<sup>66</sup> Ontario, Ministry of Children and Youth Services, *Foster Care Licensing Manual* (2012) at 20–21.

As noted earlier in this report, Ministry witnesses indicated that the Ministry had been unaware JCS was operating foster homes in Thunder Bay but, did not believe that there was anything in the current legislative and regulatory framework that would prevent the agency from doing so. When the Thunder Bay homes opened in March 2016, JCS held a Regular Licence with Standard Terms and Conditions. However, by the time the Advocate's Office advised the Ministry of the whistleblower's concerns in July 2016, additional terms and conditions had already been placed on the JCS licence.

### **JCS Licensing History March 2016 – May 2017**

In March 2016, JCS's licence was renewed by the Ministry. It was a Regular Licence with Standard Terms and Conditions and set to expire one year later (in March 2017), which is the maximum time frame permitted under the Licensing Regime. The Foster Care Licensing Review Report attached to the licence indicates that the Ministry received no complaints about the agency during the time frame covered by the report. The Summary of Licensing Requirements and Recommendations identified 21 "Observed Non-Compliances".

The documented Ministry concerns that are relevant to this investigation identified problems with the following areas of operation:

- Documentation related to medication incidents
- Documentation and processes around the handling of high risk situations and the administration of psychotropic medications
- Documentation about medication changes and information about possible side effects
- Staff review of policies related to the safe administration, storage and disposal of medication
- Staff knowledge of the serious occurrence reporting processes
- Staff knowledge of "duty to report" requirements
- Staff unfamiliarity with "high risk situations" involving psychotropic medications

In May 2016, a letter from the Ministry's Licensing and Compliance Unit notified JCS that additional terms and conditions had been added to the Licence, "requiring that corrective action be taken to support children's health, safety and well-being and to address outstanding issues related to staff training". The additional terms and conditions included the following:

- Requirement to log and conduct a monthly trend analysis of Serious Occurrences and submit it to the Ministry
- Ensure all staff and parents working with high risk youth are provided with training on the individual needs of the youth
- Ensure all staff and foster parents are aware of their respective roles and responsibilities in relation to youth in their car

- Ensure all staff are aware of their roles with respect to youth who have a 1:1 staff; clearly record this information on a daily log available to placing agencies and the Ministry as requested
- Ensure that individualized safety protocols are established for all youth in care [at a named home located in southern Ontario]. The safety protocols must establish a procedure that ensures the health, safety and welfare of each resident and must be placed on a child's file accessible to all staff and foster parents

The changes to the JCS licence related to “safety concerns about a couple of current residents who were often running from the home” and a requirement for “making the home feel more like a foster home (which it is) rather than a group home”. The letter instructed JCS to return the licence issued on March 8, 2016 to the Ministry office in Newmarket and, further, to ensure that the new licence was kept onsite and available for inspection.

In response to the concerns reported by the Advocate's Office in July 2016, the Ministry's Central Region Office requested assistance from the Northern Region Office to conduct unannounced visits to the homes in Thunder Bay. The findings included in a “Summary of Licensing Requirements and Recommendations” document dated July 21, 2016 were based on information obtained from interviews with the youth placed at the residences, the foster parent working at one of the residences, and a review of JCS files. The Ministry identified the following areas of non-compliance: training (related to serious occurrences and the duty to report); hiring (related to reference checks and criminal record checks); and documentation in youth files (lack of individualized education plans).

On August 16, 2016, the Ministry provided written notification to JCS that the licence had been amended to include additional terms and conditions as the result of an inspection arising from complaints that had been made to the Ministry. The letter stated that failure to comply with the terms and conditions could result in a suspension, revocation, or refusal to reissue the licence. The added terms and conditions that are relevant to this investigation include the following:

- A requirement that individualized safety plans for each youth in care be submitted to the Ministry every quarter starting October 1, 2016. More specifically, safety plans were to include a procedure “that ensures the health, safety and welfare of the child/youth by outlining the needs of the child/youth, behaviours the child/youth displays, triggers, what works with the youth, and how to handle these situations as they arise
- A requirement for JCS to provide the Ministry with a checklist to demonstrate that a vulnerable sector screening police check, reference checks and orientation/training have been received/completed for staff and foster parents

- A requirement that, every month, starting September 15, 2016, JCS provide the Ministry with a schedule showing the hours a foster parent is in the home and the hours a staff is working in the home; the schedule is to clearly outline when a foster parent is on relief and the staff covering that relief; the schedule should clearly outline when a staff in the home is working 1:1 with a child/youth that is being paid by the placing agency; the schedule should show that there is continuous care at all times
- A number of requirements related to record keeping including a “roll up” of foster homes (including names of foster parents, address, number of children in the home) to be submitted to the Ministry quarterly; a “roll up” of information pertaining to the children in the home (initials of the child, placing agency, date of birth) to be submitted to the Ministry quarterly

On March 17, 2017, the Ministry issued a Provisional Licence to JCS (set to expire six-months later) with one added term and condition:

The Licensee shall provide a copy of the current licence to all placing agencies that have a child placed in the foster home no later than March 31, 2017. The Licensee shall submit a written statement of confirmation that this term and condition has been met no later than April 3, 2017.

The Foster Care Licensing Review Report indicates that six complaints about JCS had been received by the Ministry. There were four complaints from different children’s aid societies (including Dilico) as well as complaints from the Advocate’s Office.

Two months later, after a JCS resident died while out in the community visiting with family members, the Ministry conducted further unannounced visits at the Thunder Bay residences. Shortly thereafter, the Ministry amended the Provisional Licence issued in March 2017 and included the following terms and conditions:

- Ordered 3 JCS homes operating in Thunder Bay to be immediately closed;
- Directed JCS to provide a copy of the provisional licence to all agencies with children placed in the homes and for JCS to provide confirmation to the Ministry that the licence had been sent to all placing agencies; and
- Prohibited JCS from operating any new foster homes or accepting any new children for placement in the existing foster homes.

Some of the findings from the Ministry inspection at that time included the following:

**Home 1:**

- One foster mother reported she maintained a residence with her children elsewhere (but stated she was in the foster home every night until 8am each morning)
- The foster parent was not aware of her “duty to report” obligations under the CFSA

- The only training the foster parent had received was online training and reviewing the JCS binders
- Ministry representatives had a discussion with the foster mother, JCS supervisor and several staff about the purpose of 1:1 care. JCS staff believed it meant they were to check on the residents every 15 minutes
- The foster mother was unsure of what she would do in the event that she discovered an error made by a staff person in the administration of the medication; Ministry staff found several customized card board folder “blister packs” of medication with a week’s worth of medication that had become separated from information that would identify the patient to whom the medication belonged. (Ministry staff asked for all medication to be brought into the living room area to sort and label appropriately)
- In the foster parent’s bedroom there were three interior doors propped up against a wall; the closet was unorganized and piles of clothing and other bagged items could be observed. (The foster parent reported that one of the residents’ items were in her room as part of a safety plan)
- There was little to no orientation and training for the foster parent and staff
- One youth reported that when a previous foster parent lived in the home the house was messy and there was no food

#### **Home 2:**

- Foster parent reported having a family home elsewhere
- On the back deck outside the house there were two single bed mattresses, a plastic slide, a small plastic pool, and a broken cement bird bath; there were also two sheds in the backyard which were “not in a good state of repair”
- There were drawings and writing on the walls of all three bedrooms. The drawings in the occupied room were of a sexually profane nature, the drawings and the writing on the wall in the unoccupied upstairs room were described by the Ministry representative as profane and racist, and the writings on the wall in the unoccupied main floor bedroom were of suicidal ideation (at the time of the inspection 1 young person lived in the home and another young person had recently moved out)

#### **Home 3:**

- A youth described living in a JCS (Thunder Bay home) with a previous foster parent and stated that the couches were ripped, the house was dirty and the food was not as good
- The foster parent reported having another home elsewhere.



## Oversight Obligations of the Placing Agencies

The Ministry's *Children in Care Manual* variously describes the placing agency as having "overall responsibility for the child in care", "overriding responsibility for the child's well-being", and responsibility for "monitoring the placement".<sup>67</sup> Written in 1985, the manual contains very clear statements about the obligations of the placing agency and the tools available to it to meet these obligations:

The placing agency is therefore responsible for directing and monitoring the course of service provided to the child, regardless of the type of residence in which the child is placed.<sup>68</sup>

In the past, there has been a tendency for a placing agency to expect a residence (especially a high-priced residence with many professional staff) to take full responsibility for the child's care, without further input from the placing agency. The *Child and Family Services Act* is very clear in demanding the continuing pivotal attention of the placing agency in each child's care, through establishment of expectation for input into the child's plan of care, and minimum review and visitation timelines.<sup>69</sup> [emphasis added]

The manual describes the responsibility of the placing agency to "monitor the placement" through a formal review of the plan of care within three months of admission to a placement, at six months afterwards, and a minimum of every three months thereafter<sup>70</sup> and outlines the minimum requirements for frequency of visits by the children's aid society to the child they have placed in care: within the first 7 days of the placement; another visit within 30 days of the placement; and every 90 days thereafter.<sup>71</sup> Children's aid societies are also required to have written agreements with foster care agencies for the provision of service to children in care that includes financial agreements and the identification of goals and the ways in which they will be achieved while the child is in care.<sup>72</sup>

In summary, a placing children's aid society has only three ways of exercising their responsibility to monitor a placement: (1) visits to the child; (2) participation in the development of plans for the child's care while the child is in the placement; (3) Service Agreements between the society and the foster care agency.

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<sup>67</sup> Ontario, Ministry of Community and Social Services, "Roles and Responsibilities with Regard to the Child in Care: Children in Care Manual" (1985) CH-0305-02.

<sup>68</sup> Ontario, Ministry of Community and Social Services, "Roles and Responsibilities with Regard to the Child in Care: Children in Care Manual" (1985) CH-0305-02, 1.

<sup>69</sup> Ontario, Ministry of Community and Social Services, "Roles and Responsibilities with Regard to the Child in Care: Children in Care Manual" (1985) CH-0305-02.

<sup>70</sup> Ontario, Ministry of Community and Social Services, "Roles and Responsibilities with Regard to the Child in Care: Children in Care Manual" (1985) CH-0305-02, 3.

<sup>71</sup> Ontario, Ministry of Community and Social Services, "Child's Development in Care: Children in Care Manual" (1985) CH-0302-03.

<sup>72</sup> Ontario, Ministry of Community and Social Services, "Procedures on Admission: Children in Care Manual" (1985) CH-0204-05, 2.

In contrast, and in addition to the Ministry's authority in the areas of licensing and compliance, a Ministry employee with the designation of "Program Supervisor" had the legal authority to enter premises at "any reasonable time"; inspect the facilities, services, and books of account; make copies of the books and records; and remove books and records from the premises to make copies under the *CFSA*<sup>73</sup> (the law in force at the time); Ministry "Inspectors" have even more extensive powers under the *CYFSA*).<sup>74</sup>

There appeared to be a consensus between Ministry and placing agency representatives about the kinds of things a placing agency would be expected to monitor when a child is in a placement: Is the young person registered in school? What does their day look like? Is counselling or an assessment required? If so, who is providing it and how often are they attending? Is their bedroom appropriate? Are there appropriate activities and recreation? Are they safe?

Each of the placing agencies, at some point, became aware of concerns about the services provided by JCS, specifically: the inexperience of staff; problems with the supervision of the children in the home; and poor response by JCS staff to serious incidents. The placing agencies responded to these concerns with various strategies. Sometimes, the agencies removed the children, in another situation the children's aid society supplemented JCS staff with their own staff members, in another case the agency supplied their own "incident logs" for the JCS workers to fill out. Agencies also followed up on concerns by making complaints to JCS senior management.

The examples below describe situations that each came to the attention of one of the three placing children's aid societies. In each case, the child was later moved by the involved agency:

**Example 1:**

There was some concerns regarding medication, like training of his staff. ... We were starting to get some concerns, I think we got a call from the hospital ... like mental health staff at the hospital ... I think it was a combination of people not having the proper training and working with someone like [foster child] ... they were scrambling to keep staffing her.

**Example 2:**

And then of course the incident with the ambulance... where [foster child] was sent to the hospital by herself. And I was not impressed with that ... and I told [JCS Senior Management] and [he/she] was like, "Ok, that worker is gone." And I was like, "Come on ... you have to train these workers. ... who does not know that a child in an ambulance ... need[s] a parental escort, they need somebody in there with them?"

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<sup>73</sup> RRO 1990, Reg 70, s 6(1).

<sup>74</sup> *Child, Youth and Family Services Act, 2017*, SO 2017, c 14, s 276.

### **Example 3:**

The one I can think of specifically is a worker going to the home, and there being no caregiver in the home. They were, girls or girl, I [c]ouldn't say for sure, was on their own and one of our workers had made a visit to take ... to go to the home, pick up the child to go to a visit or whatever, and they were on their own.

### **JCS Response to Ministry Concerns**

Following a meeting with Ministry representatives in the fall of 2016, JCS distributed a "Service Plan". The copy received by Investigators is undated but a representative from one of the placing children's aid societies advised the Advocate's Office that his agency had received a copy of this plan on October 14, 2016. In the "Service Plan," which has been referred to by others as a Quality Assurance document, JCS acknowledged responsibility for the specific concerns raised by the Ministry and promised to implement each recommendation of the Ministry. The document also made a connection between the concerns raised by the Ministry and the larger concern of quality assurance. It was indicated that two social workers had been hired, one of whom would take on the responsibilities of quality assurance. In addition, it was reported that JCS's clinical consultant would provide training to both supervisors and foster parents in Thunder Bay on "best practices in operating treatment foster care". This did not occur.

Approximately 8 months later, in May 2017, JCS sent a "statement" to placing agencies in response to the added terms and conditions imposed by the Ministry on the agency's existing license. The new terms and conditions directed JCS to notify the placing agencies that the Ministry had ordered the three JCS homes then known to be operating in Thunder Bay at that time to be closed. In this statement, JCS acknowledged "difficulties in delivering high quality services and seeking the best possible staffing". These problems were partly attributed to the fact that the Thunder Bay homes were "fairly remote from our base" and it was indicated that a consultant had been hired the previous December [2016] to "redefine roles and systems of accountability" and to deliver training to all Thunder Bay foster parents and support staff. The statement indicated that the training was to take place in June 2017 and that a new supervisor for the Thunder Bay homes had been hired.

### **Communication Between Oversight Mechanisms**

#### ***Ministry and CAS Placing Agencies***

Ministry witnesses confirmed that it was not common practice for the Ministry to advise placing agencies or investigating children's aid societies of "non-compliance" by residential service providers, or the outcome of any licensing reviews and investigations undertaken by the Ministry in response to complaints — even if additional terms and conditions were added to a licence. Ministry employees told Investigators that it was the responsibility of the placing agency to request a copy of the most recent licence from a foster care agency like JCS.

Under Regulation 70 to the *CFSA*, the governing legislation in place at the time these events occurred, a licence or provisional licence was required to be kept on the premises by the licensee and be available “for inspection by any person”.<sup>75</sup> In theory, the licence could have been accessed by the children’s aid societies — if they were aware of this provision in the law. Based on information from interviews with staff at the agencies who placed with JCS in Thunder Bay, Investigators concluded that most placing agencies operated on the assumption that there would be no reason to be concerned about an agency that was licensed by the Ministry.

This issue of the ‘visibility’ of the licensing status of a residential service provider has been partially solved by the *CYFSA*, because an agency such as JCS is now required to provide a copy of the licence directly to a placing agency prior to accepting placement of the child.<sup>76</sup> However, because the obligation to disclose the licence is not an on-going requirement, it still leaves a gap if the status or terms and conditions of a licence change, as was the case with JCS.

For example, if a placing agency reviewed a copy of the JCS licence in March 2016 (at that time a “Regular” Licence with Standard Terms and Conditions), it would not have known to check again in May 2016, when the licence was amended, or again in August 2016 when it was further amended. It was not until March 2017, when a Provisional Licence was issued by the Ministry, that each placing agency was notified of the change in licensing status. This notification was not done directly by the Ministry. Instead, one of the newly added terms and conditions directed JCS to provide a copy of the Provisional Licence to the placing agencies.

### *Communication Between Investigating Societies and the Ministry*

The Ministry was not routinely made aware of the child protection investigations or the outcome of child protection investigations involving JCS. Specific to this investigation, Dilico confirmed to Investigators that it was not their usual practice to contact the Ministry directly to advise of investigations and outcomes. Investigators were advised by Ministry staff that this type of information was not routinely provided to them by other child protection agencies. Currently, there is no requirement for a children’s aid society to do so.

Regulations to the *CFSA* (as well as to the *CYFSA*) require children’s aid societies to comply with the Child Protection Standards when carrying out their work.<sup>77</sup> Standard 5 under Appendix A of the Child Protection Standards when identifies who is to be advised about the outcome of an “Institutional” or “Community Caregiver” investigation.<sup>78</sup>

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<sup>75</sup> RRO 1990, Reg 70, s 65(16).

<sup>76</sup> *Child, Youth and Family Services Act, 2017*, SO 2017 c 14, s 249(1).

<sup>77</sup> O Reg 206/00 (repealed), ss 2–4; O Reg 156/18, ss 29–32.

<sup>78</sup> Ontario, Ministry of Children and Youth Services, *Ontario Child Protection Standards (2016)* at 110.

- The child alleged to be in need of protection
- The caregiver(s) of the child
- The child's worker
- The person alleged to have caused the child protection concerns
- An administrator of the institutional setting
- The worker responsible for oversight of the community caregiver

As is evident, the Ministry does not appear on this list.

Perhaps surprisingly, the Child Protection Standards are also mostly silent about notification to the Ministry when child welfare agencies receive reports of concern (referrals) about licensed residential settings. According to this section in the standards:

It is important that CAS's are able to distinguish between referrals about licensed residential settings that raise child protection concerns (which may warrant a child protection investigation) and those which may relate to quality of care or potential licensing concerns in licensed residential settings (which may require some other type of follow up).<sup>79</sup>

Examples of issues identified as requiring "some other type of follow up" include:<sup>80</sup>

- Operational, physical or safety standards of the facility (staffing levels, quality of food served, number of bedrooms, number of children in the home)
- Concerns about the violation of the *CFSA* rights of children in care (that do not relate to allegations of abuse or neglect)
- Complaints about the discipline practices of caregivers (ie, that would not be considered abusive or neglectful)
- Use of physical restraints that do not result in an injury or an allegation of abuse where there are no previous patterns of injuries by the same caregiver/facility or to the same child.

The Child Protection Standards suggest that a referral received about any of the above situations should be shared with the relevant CAS or placing resource. There is no indication that the Ministry should be informed about these situations unless the concern meets the criteria for reporting as a Serious Occurrence.<sup>81</sup>

A Serious Occurrence Report must be submitted to the Ministry in the following situations:<sup>82</sup>

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<sup>79</sup> Ontario, Ministry of Children and Youth Services, *Ontario Child Protection Standards (2016)* at 102.

<sup>80</sup> Ontario, Ministry of Children and Youth Services, *Ontario Child Protection Standards (2016)* at 102–103.

<sup>81</sup> Ontario, Ministry of Children and Youth Services, *Ontario Child Protection Standards (2016)* at 103.

<sup>82</sup> RRO 1990, Reg 70, s 102(1).

- a) A resident dies
- b) A resident is seriously injured
- c) A resident is injured by a staff person or the licensee
- d) A resident is abused or mistreated
- e) A resident is physically restrained by a staff person or by the licensee
- f) A complaint is made by or about a resident that is considered by the licensee to be of a serious nature
- g) The resident resides in a residence operated by the licensee in which a fire or other disaster occurs
- h) In addition to the matters set out [above, when] any other serious occurrence takes place concerning a resident ...

Additional directives about what is to be reported as a Serious Occurrence can be found in the *SOR-ESOR Guidelines 2013 for Service Providers*, which includes a category titled, “Complaint about the operational, physical or safety standards of the service, that is considered serious by the service agency.”<sup>83</sup> Examples in this category are described in the guidelines to include: adverse water quality, reports of excess lead, improper storage of hazardous/dangerous substances including but not limited to toxic cleaners or lamp oil in the residence, medication error (not resulting in illness), missing or stolen files, and neighbour complaint about noise or physical appearance of the property (only where municipal authorities are involved).<sup>84</sup>

In summary, absent an allegation of assault by staff against a client,<sup>85</sup> there is no clear direction that a child protection investigation — in and of itself — is something that is to be reported by a children’s aid society to the Ministry as a serious occurrence.

### *Communication Between Children’s Aid Societies*

Three children’s aid societies were involved in placing children in JCS homes in Thunder Bay. Dilico was both a placing agency and the local children’s aid society that carried out investigations when referrals about JCS were received. Abinoojii and Tikinagan placed children at the JCS foster homes in Thunder Bay.

The Child Protection Standards require that a child’s worker be made aware of the outcome of a child protection investigation, and that the investigating society informs all agencies which have children placed in a residential setting that an investigation with respect to the setting is underway. However, there is no formal requirement or mechanism for investigating children’s aid societies to inform other placing agencies

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<sup>83</sup> Ontario, Ministry of Community and Social Services/Ministry of Children and Youth Services, *Serious and Enhanced Serious Occurrence Reporting Guidelines*, (March 2013) at 6.

<sup>84</sup> Ontario, Ministry of Community and Social Services/Ministry of Children and Youth Services, *Serious and Enhanced Serious Occurrence Reporting Guidelines*, (March 2013) at 6–7.

<sup>85</sup> Ontario, Ministry of Community and Social Services/Ministry of Children and Youth Services, *Serious and Enhanced Serious Occurrence Reporting Guidelines*, (March 2013) at 7.

about the outcome of a child protection investigation involving a residential licensee that relates to a child in the care of another agency.

For example, information about the recommendations made to JCS by Dilico following an investigation in April 2017 would have been very important to the Ministry and other placing children's aid societies who were considering a JCS placement:

1. As stated in the previous investigation, child welfare checks should be completed for all staff hired to work in JCS Homes.
2. Formal training and supports in place for staff hired to work in the home and training should be specific to providing therapeutic foster care services.
3. Office space created for staff to complete daily logs on a computer designated for confidential matters only, related to youth placed in the home. Child binders should also be readily available for observation and kept in a secure location.
4. Ensure staff scheduling reflects the need for one-to-one supervision.
5. A procedure should be in place to ensure scheduled medical and mental health appointments for youth in the home are being attended.
6. Outside resources and supports available within the community should be contacted to ensure the mental health needs of each child in the homes are being met.
7. Regular case conferencing should take place with all child welfare agencies involved with youth placed in the home, specifically the parent society, in order to ensure appropriate services are being provided.

### *Communication Between Licensee and Ministry*

Investigators were advised by Ministry employees that it is the responsibility of the licensee (in this case JCS) to notify the Ministry of any child protection investigations through the submission of Serious Occurrence Reports. Investigators reviewed the Serious Occurrence Reports submitted during the relevant period and confirmed that JCS notified the Ministry about several incidents that later resulted in open child protection investigations. The Serious Occurrence Reports also indicated that a children's aid society had been contacted. However, the Advocate's Office could find no requirement, either in regulation or guidelines, which explicitly states that a child protection investigation involving a residential licensee, in and of itself, must be reported to the Ministry.

Similarly, the *Foster Care Licensing Manual* includes a requirement that licensees such as JCS establish protocols with the local children's aid society relating to the investigation and reporting of abuse allegations and recommends that the licensee develop a written policy which incorporates "the reporting requirements of the ministry".<sup>86</sup> In reviewing JCS policies and procedures, Investigators found no policy that

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<sup>86</sup> Ontario, Ministry of Children and Youth Services, *Foster Care Licensing Manual* (2012) at 102–103.

required JCS to notify the Ministry about the existence of a child protection investigation into the care provided to the children placed in its homes.

### *Notifications About New Homes*

There is no requirement in legislation, regulations, or the *Foster Care Licensing Manual* that a foster care agency notify the Ministry about the opening of a new home — unless the type of residence being opened is considered a “new program” that requires a licence.<sup>87</sup> This differs from the licensing rules that apply to an agency operating group homes, which are far more site specific and require a licensee to obtain a separate licence for each group home.

Prior to a licensing review, Ministry staff ask a licensee like JCS to provide a list of the foster homes that it operates. The JCS licensing review in March 2016 did not include the JCS homes in Thunder Bay because the Ministry was not aware of the fact that JCS has started to operate in the north at that time. Absent a complaint, it is therefore conceivable that the Ministry would not have known about the JCS homes until the next scheduled review in March 2017.

Another potential mechanism that would alert the Ministry to a newly opened home is Serious Occurrence Reports. However, Ministry representatives told Investigators that a licensee is not required to indicate the specific address of the foster home connected with a Serious Occurrence — the address of the head office is all that is required. In this situation, it is difficult to determine the location of the home where the incident occurred, as well as the rate of serious occurrences in a specific foster home. In reviewing a number of Serious Occurrence Reports submitted to the Ministry by JCS about children at the homes in Thunder Bay, the Advocate’s Office noted that each Serious Occurrence Report listed the head office of JCS in southern Ontario as the “site address”. Eight of these reports were submitted in May and June 2016 before the Ministry became aware of the homes in Thunder Bay.

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<sup>87</sup> Ontario, Ministry of Children and Youth Services, *Foster Care Licensing Manual* (2012) at 23.



## X. SUMMARY

In 2016, unbeknownst to the Ministry, JCS opened three homes in Thunder Bay. The Ministry first learned of the Thunder Bay homes from the Advocate's Office after the whistleblower made a complaint to the Advocate's Office and requested an investigation into her concerns. JCS was able to open these homes without notice to the Ministry under the existing regulatory framework because JCS was licensed by the Ministry as a "foster care agency."

The children who lived in the three JCS residences in Thunder Bay struggled with complex needs and mental health challenges including self-harm, depression, acute suicidal ideation, sexual assault trauma, and substance abuse. Investigators from the Advocate's Office learned that the staff hired by JCS to look after the children were very new and inexperienced in the children's services field. The training JCS provided to new employees consisted of slide deck presentations that staff were expected to view on a computer.

Investigators from the Advocate's Office found that the employees of the JCS Thunder Bay operations did not have the education, training or capacity to adequately and appropriately meet the needs of the high-risk youth in their care. Serious concerns about lack of training and capacity were identified, sometimes repeatedly, by the Ministry, children's aid societies, and medical and mental health professionals in the community, and by the whistleblower who contacted the Advocate's Office to request this investigation.

Furthermore, many of the primary duties in all JCS homes in Thunder Bay were initially fulfilled by a 'volunteer' who was doing a "favour" for JCS, including admission planning, attendance at formal plans of care, and responding to crisis and emergency calls from foster parents and other staff. While the staff were officially supervised by a person who was a student in a Child and Youth Worker Diploma program, they were instructed to call the 'volunteer' when the supervisor was not available. The 'volunteer' was receiving daily calls from foster parents and staff, most of whom told Investigators that they felt ill-equipped to manage extremely high-risk and volatile situations. Ultimately, the 'volunteer' stopped responding to staff when called. JCS management acknowledged having difficulties with recruitment, training, high-staff turnover, and having to "weed out" a lot of people from its Thunder Bay operations in a very short time.

There was confusion between children's aid societies, young people, and community agencies about whether the JCS homes in Thunder Bay were foster homes or group homes. 'Foster parents' and other JCS staff worked interchangeably across all three Thunder Bay residences, and staff turn-over was very high. According to information provided to Investigators by JCS staff, there were six individuals designated as 'foster parents' in one home over a ten month period. Children's aid society workers and Ministry staff were told on a number of different occasions by a number of different

foster parents that the foster parent had a “family home elsewhere” or another home where their husband and children lived.

Even the basic needs of young people who were placed in the JCS homes in Thunder Bay were not met: on multiple occasions in 2016 and 2017, Ministry and children’s aid society notes documented concerns about the living environments, the quality and quantity of food, the lack of oversight in the administration of medication, the lack of follow-through in accessing professional supports for the children, and the lack of supervision in the residences.

After the Ministry ordered the closure of three JCS homes known to be operating in Thunder Bay in May 2017, JCS sent out a “Statement” to placing agencies in which JCS acknowledged “organizational difficulties in delivering high quality services and the best possible staffing” at their Thunder Bay operations.

Could a similar situation happen again? Yes. The purpose of this section is to explain the reasons why.

JCS has held a “Licence to Provide Residential Care” from the Ministry since 2006 and has the discretion to determine the “type” of foster homes that it operates. In licensing and marketing materials, JCS has always held itself out to be a “treatment foster care agency ... providing individualized services to foster children with special needs.”

Over time, JCS was provided with two letters from the Ministry. The letters set out the Ministry approved *per diem* rate payable to JCS by children’s aid societies and other agencies that might place children in the home. The first letter dated March 10, 2006 identified JCS as a “Treatment Foster Care Program.” The second letter dated January 25, 2010 characterized JCS as offering “Intensive Services”.

The Ministry directed JCS to provide these letters to placement agencies, along with a detailed program description and fact sheet outlining the services to children included in the Ministry approved *per diem* rate. JCS has been permitted to use these letters for at least 11 years (from 2006 to the time Investigators interviewed Ministry staff) in its dealings with children’s aid societies and placing agencies in the children’s residential services marketplace in Ontario. The effect of the letters and the Ministry licence was to endorse JCS as a foster care agency that was capable of providing intensive services and treatment to the children and youth placed in JCS homes.

As identified earlier in this report, the Ministry has no objective standards by which to determine whether the designation “treatment” would accurately and appropriately describe the services offered or proposed by a foster care licensee. There are also no minimum requirements prescribed in law, regulations or Ministry policy directives that set out the minimum qualifications of a person working in the foster care system — regardless as to whether that person works in a “regular” foster home or one that has been characterized as a “treatment” foster home. The only requirement is that a foster

care licensee ensure that the staff he or she hires are provided with training that is adequate to meet the needs of the children placed in the homes.

In addition to the fact that the descriptor “treatment foster care” has little objective meaning in the Ontario context, there are no existing standards by which to assess the “quality of care” provided to children in residential placements. Although there is consensus that quality of care is an important issue, there is some controversy as to who is responsible for ensuring it occurs. According to a report by an expert panel delivered to the Ontario government in 2016, “The panel heard from a number of children’s aid societies that they presume the Ministry has accountability for quality of care in group and foster homes through its licensing process, while the Ministry saw the Children’s Aid Societies as accountable for monitoring the quality for care provided by providers with whom they hold contracts”.<sup>88</sup>

Compared to the Ministry, children’s aid societies have very few tools at their disposal to monitor the care provided by a residential service provider or foster care agency. The *Children in Care Manual* provides clear direction that placing children’s aid societies have overall responsibility for a child in care, regardless of where that child is placed, and suggests that monitoring the care of the child can be done through “visitation timelines” (at 7 days, 30 days and every 90 days thereafter) and participation in the development of that child’s plan of care. Another tool available to a children’s aid society or other placing agency is through the enforcement of the terms of the service agreements or special rate agreements they sign with a foster care agency or other residential service provider. There are limitations to this mechanism of enforcement.

Unless a placing agency reviews all of the resumes and job applications for the staff working in a home, they would not know the true qualifications of the staff and whether these qualifications match the program description or other marketing materials provided to them by the foster care agency. In the case of JCS, unless the placing agency interviewed all of the staff members (including the foster parents), they would not know that the staff at the JCS homes in Thunder Bay received their training by looking at PowerPoint presentations — mostly on their own. Unless they reviewed the PowerPoint presentations, placing agencies would not realize that the content of the PowerPoint slides seemed unconnected to the service that was actually provided in the JCS homes in Thunder Bay.

Many of the children had not done well in other placements. It would not have been a surprise to the placing children’s aid societies if they had learned that a young person they had placed there continued to have difficulties. The fact that there was no reduction or disappearance of high-risk behaviour previously displayed by the children in other

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<sup>88</sup> Ontario, Ministry of Children and Youth Services, Residential Services Review Panel, *Because Young People Matter: Report of the Residential Review Panel*, (2016) at 24– 25.

homes may not, in and of itself, been a signal to placing agencies that there was a particular problem at JCS.

Most of the child protection investigations related to the JCS homes in Thunder Bay were carried out by the local children's aid society. When child protection concerns are "verified," the investigating children's aid society reports on the outcome to both the placing children's aid society and the residential care provider. Unlike the Ministry, an investigating child protection agency has no leverage or authority to direct or enforce any recommendations they might make about the operations of a foster care agency.

Ministry oversight into the day to day care that children receive in foster homes is also limited. If JCS had been operating a children's residence (ie, a group home), a separate licence would have been required for each individual residence and each would be subject to annual inspection by the Ministry. However, because JCS was permitted to operate as a "foster care agency" it was only required to have one licence and was only subjected to randomized annual reviews of 10% of its operations. There is currently no requirement that the Ministry inspect any of the individual homes operated by a foster care agency as part of the annual review of the licence, nor is a licensed foster care agency required to seek approval, or even notify the Ministry, when it opens new homes — even if they are opened in a different part of the province, within the boundaries of a different Regional Office of the Ministry.

It is clear that none of the involved organizations had a complete understanding of the full extent of the concerns that had been expressed across the children's services system about JCS operations in Thunder Bay. Many agencies identified serious problems with the care being provided to the children and youth placed there but in the absence of clear reporting requirements and established pathways for communication across the system, they shared the information in a piecemeal fashion.

For example, the Ministry did not know that JCS was operating homes in Thunder Bay until they were told by the Advocate's Office. The Ministry was not aware that a local hospital, a local police service, placing children's aid societies, and mental health agencies in Thunder Bay had raised concerns directly with JCS and, in some instances, had reported these concerns to the local children's aid society for investigation. The Ministry was not aware that several child protection investigations had verified a risk of harm to the young people residing in these JCS homes.

Similarly, there was no formal mechanism to ensure that the children's aid societies responsible for the children placed in JCS homes in Thunder Bay knew of the ongoing concerns and Ministry's amendments to the JCS licence that had occurred in May 2016 and August 2016. It was not until March 2017 that the Ministry took the step of requiring JCS to notify placing agencies of the "Terms and Conditions" that had been imposed on its licence. The JCS homes in Thunder Bay continued to operate until May 2017 when the Ministry ordered that they be closed.

When it comes to the well-being of children and youth in residential care, both the Ministry and children's aid societies must have complete information about any concerns that arise involving residential service providers. This requires clear authority for agencies and the Ministry to share information and effective mechanisms for them to do so. In many instances this can be achieved through small changes to already existing standards, policies, and procedures. If necessary, legislative change should occur to ensure that the safety and well-being of children and youth is given priority over the privacy and business interests of any residential service provider in the province of Ontario.

The concerns about JCS persisted, despite the reality that JCS was contracted to provide the basic necessities and meet specific treatment needs of young people who were placed in its care and received funds for the services provided, based on Ministry approved *per diem* rates. Additional funds for 1:1 support for individual children were paid by placing agencies through "Special Rate Agreements" that were negotiated between the placing agency and JCS. The Ministry sets the *per diem* rate based, in part, on what placing agencies advise they are willing to pay for a proposed program. Consideration is also given to the rate charged by other agencies providing similar services in the children's residential services marketplace. The Ministry, however, is not directly involved in negotiating or monitoring the funds that are paid through Special Rate Agreements and has no objective standard to determine if either the *per diem* rate or the special rate is a reasonable payment for the quality of service provided.

Investigators were told by senior management representatives of JCS that all of the children in the Thunder Bay homes had 1:1 staff support. There was confusion, however, about what exactly the 1:1 staff person assigned to the role was expected to do during the 12 hours per day identified in the Special Rate Agreements, and when exactly these hours were to be worked. The Ministry added conditions about 1:1 staffing to the JCS licence in both May 2016 and August 2016. But from the Ministry's perspective, it was the placing agencies that had ultimate responsibility for monitoring the 1:1 services through enforcement of the Special Rate Agreements.

Investigators from the Advocate's Office noted that the language in the Special Rate Agreements signed between JCS and placing agencies was vague. This compounded an existing problem: there was no common understanding about the meaning of 1:1 support for children across the children's services system. Is a 1:1 staff meant to "shadow" a young person at all times? Are they to simply check in with a youth every 15 minutes? Are they there to take a young person to specific activities and otherwise be available as a general support to the home? Or are they to provide specific treatment and support, and if so, in what form? These are the kind of questions that should be asked, answered, and incorporated into the terms of a Special Rate Agreement in order to clarify how public funds are to be used to meet the specific needs of a vulnerable child.

The Provincial Advocate for Children and Youth offers a number of recommendations to the Ministry of Children, Community and Social Services which the Advocate believes would assist in addressing gaps in training, supervision and oversight that, in this case, contributed to a level of risk that is unacceptable in Ministry licensed treatment foster homes.

## XI. CONCLUDING REMARKS

Both the Ministry and JCS were provided with a draft copy of the report and offered an opportunity to respond to the recommendations. Their responses are included in the Appendices section.

JCS concurred with the recommendations contained in this report.

In its response, the Ministry indicated that it has taken action in a number of areas such as: the development of a new standard inspection process that will include verification of the services an agency delivers or proposes to deliver under the authority of a licence; standardizing the rate-setting process to ensure better transparency and accountability for funds; increasing the number of unannounced inspections, developing new technology that will allow “real time” updates of when foster homes open or close; and the development of a new search feature in the Serious Occurrence Reporting and Residential Licensing Technology system that would allow placing agencies to access information: regarding the services provider, the status of the licence, any conditions on the licence and a summary of prior inspections.

## XII. RECOMMENDATIONS

1. The Ministry should establish clear and objective criteria that must be met before a residential service provider is permitted to market itself to placing agencies as providing “treatment” to children and youth in a residential setting.
2. The Ministry should closely monitor residential service providers who market themselves as providing “treatment” to ensure that the public funds spent on 1:1 or 2:1 support in such placements are transparently spent in service of the specific needs of the children and youth who are being cared for.
3. The Ministry should be clearly identified, both within the children’s service sector and to the public, as the “lead” agency for ensuring that remedial action is taken to address any concerns about a residential service provider.
4. The Ministry should require all residential service providers to immediately notify the Ministry each time it opens or closes a foster home in the Province of Ontario.
5. The Ministry should include two additional Standard Terms and Conditions for all forms of Licence to Provide Residential Care that requires:
  - (a) A foster care agency deliver a copy of the licence (and any subsequent amendments to that licence) to all placing agencies that have a child placed in the home and to provide the Ministry with confirmation that the licence has been sent
  - (b) A foster care agency to clearly record the schedule of hours that a foster parent, relief staff, and 1:1 support staff are present working in the home and ensure that this information be made available to the ministry and placing agencies on request
6. Consistent with Recommendation #8 of the 2016 report of the Residential Services Review Panel,<sup>89</sup> the Ministry should establish a centralized publicly accessible, web-based directory of all licensed service providers in Ontario that includes basic organizational information and all information related to the licence status of the service provider including: status, terms and conditions, and inspection reports.
7. The Ministry should amend the *Ontario Child Protection Standards, 2016* as follows:
  - a) to require child protection agencies to report any complaint about a residential service provider directly to the Ministry
  - b) to require an investigating children’s aid society to notify the Ministry whenever a child protection investigation involving a residential service provider is initiated and to advise the Ministry of the outcome of that investigation

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<sup>89</sup> Ontario, Ministry of Children and Youth Services, Residential Services Review Panel, *Because Young People Matter: Report of the Residential Services Review Panel* (2016) at 12.



- c) to require an investigating children's aid society to report on the outcomes of all child protection investigations involving a residential service provider to agencies who have a child placed in the residence;
- 8. The Ministry should require that all Serious Occurrence Reports include mandatory reporting of the location of the site of each occurrence and not just the address of a licensee's head office.
- 9. The Ministry should amend the Serious Occurrence Reporting Guidelines to require mandatory reporting to the Ministry of the initiation of all child protection investigations involving residential service providers.
- 10. The Ministry should ensure that all children and youth living in all foster homes operated by a licensed foster care agency are informed, in language suitable to their understanding, each time a licensing review is scheduled to occur and are afforded the right to meet with a Ministry representative.

### XIII. APPENDIX A

#### JOHNSON CHILDREN'S SERVICES INC. RESPONSE TO ADVOCATE'S REPORT

February 26, 2018

JCS appreciates the time and effort involved in compiling this comprehensive report, and concurs with all the recommendations herein.

JCS had a longstanding service relationship with the Tikinagan and Dilico agencies prior to expanding services to the Thunder Bay area. As a result of this relationship, JCS was encouraged to begin to operate in the Thunder Bay community. Despite some apprehension about the remote management challenges during the initial period of operations, JCS agreed to do so.

A lack of local knowledge of personnel and support services caused JCS to rely heavily on recommendations from local service providers and an experienced retired supervisor of foster homes, referred to in this report as the "volunteer", in engaging foster parents.

In hindsight, JCS went through this process too quickly and without sufficient support from head office. Delivery of training, supervision, and coaching suffered as a result. Nonetheless, local referring agencies apparently felt that, given the lack of options available for residential child care, JCS was an appropriate placement resource. Agency workers visited the homes regularly, both in scheduled and unscheduled visits and were, with some exceptions noted, satisfied with the placements, or at least felt that those placements were the best available.

JCS concerns about service quality did mount however: the JCS local Thunder Bay supervisor was dismissed in late 2016 and a new supervisor, known and respected by the referring agencies, was engaged shortly thereafter. The support role of the "volunteer" was eliminated.

JCS began an agency wide review in January 2017. HR practices, record keeping, training, and policies were all updated. A new curriculum was established for training, and made mandatory for all foster parents, resource workers and supervisors. Initial training under this new regimen was completed by the end of summer 2017.

Senior staff completed Indigenous Cultural Awareness Training sessions.

A new home inspection regimen was created, with standards going beyond Ministry requirements. As a result, some foster homes were removed from the rolls.

JCS has taken significant steps towards being a best practice provider of foster home and treatment youth services, and will continue to do so.

There is no question that there is an alarming lack of appropriate services for indigenous youth in care. While every party involved wishes to reduce family separations, and provide better and more appropriate supports to the youth, there is no question that the number of hard to serve youth who cannot live in their parental home is not diminishing, and indigenous child service agencies are very hard pressed to find useful service options.

Providers of contracted services contend with a lack of experienced personnel, the challenges of foster parent and worker burnout given the severe challenges faced by the young people in their care, many of whom might have done better in a more structured and controlled environment had such an option existed.

It should be noted when the Ministry closed the JCS foster homes in Thunder Bay, the only immediate option for some of the former residents was placement in a motel, with 24hr one on one support. JCS staff was, for several weeks, contracted to supply that support, a clear indication that JCS continued to enjoy the trust of referring partners.

One day, JCS may again look to operate in the Thunder Bay area. Should that occur, the “start- up” curve will be much longer and much less steep. All recruitment and training processes will occur prior to any offer of service delivery. A local fully qualified supervisor will be in office long before any service occurs. Senior management visits will be much more frequent. Referring agencies, the Ministry, and other stakeholders will be involved and informed every step of the way.

In conclusion, it must be said that JCS has always appreciated the role of the Provincial Advocate for Children and Youth, finding it to be an essential element of improving service for Ontario’s young people in care.

It is with considerable regret that we learned of the impending closing of the Office of the Provincial Advocate for Children and Youth. The Office has a strong track record of extracting valuable learnings from unfortunate situations. Children in our care have often remarked on the importance of the office and their good treatment in contact with the Office. Service providers are losing a valuable resource.

### MINISTRY OF CHILDREN, COMMUNITY AND SOCIAL SERVICES RESPONSE TO ADVOCATE'S REPORT

#### Ontario Child Advocate Draft Report - Johnson Children's Services Ministry Responses to Recommendations

##### **PREAMBLE**

The Ministry of Children, Community and Social Services (Ministry) recognizes that children and youth receiving licensed residential services are among the most vulnerable in the province, especially including the youth mentioned throughout the Ontario Child Advocate's (OCA) investigative report on Johnson Children's Services. The Ministry is also carefully reviewing and considering all of the OCA's recommendations within this report. In addition, the Ministry will continue to examine options for reform to strengthen licensed residential services for children and youth in Ontario.

The Ministry's work to strengthen the licensed residential services system includes increasing the number of unannounced inspections of licensed group and foster homes; enhancing the quality of care children and youth receive in licensed residential settings through the development of more quality of care standards for residential licensees; giving children and youth a voice by helping them to understand and exercise their rights; and, strengthening oversight and enhancing the use of data.

It is also important to acknowledge the Ministry's work with the Ministries of Health and Long-term Care, Education and Indigenous Affairs on responding to the Office of the Chief Coroner's expert panel report, *Safe with Intervention*, in partnership with the Ontario Association of Children's Aid Societies and the Association of Native Child and Family Service Agencies of Ontario to continue to improve the outcomes for children and youth in care across the province.

**RECOMMENDATION ONE:** The Ministry of Children, Community and Social Services (Ministry) should establish clear and objective criteria that must be met before a residential service provider is permitted to market itself to placing agencies as providing "treatment" to children and youth in a residential setting.

### **Ministry Response:**

Residential licensees are required to complete a section on the licence application and renewal form on an annual basis that describes the services that are being or proposed to be delivered under the authority of the licence. With the implementation of the Serious Occurrence Reporting and Residential Licensing (SOR-RL) information technology (IT) system for licensing, placing agencies will have access to these program descriptions. SOR-RL is intended to be the definitive source of information and as such should assist in providing clarity about the nature of services being provided.

In addition, the Ministry is developing new standard inspection processes, including verification of the program statement, for all licence inspections which will be included in the new licensing manual for 2019.

At this time, there are no provincial criteria to define different treatment modalities, e.g. "specialized" or "treatment". The Ministry is considering how this recommendation may be integrated into current work, including considering the development of a standard screening tool to assist placing agencies when making placement decisions.

**RECOMMENDATION TWO:** The Ministry should closely monitor residential service providers who market themselves as providing "treatment" to ensure that the significant public funds spent on 1 :1 or 2:1 support in such placements is wisely and transparently spent in service of the specific needs of the children and youth who are being cared for.

### **Ministry Response:**

The Ministry is developing new standard inspection processes, including verification of the program statement, for all licence inspections which will be included in the new licensing manual for 2019. Staff training on the new processes will take place along with training on the new SOR-AL IT system. This will assist in placing agencies' having a clear understanding of the services being offered by residential service providers.

As part of the SOR-AL IT system, the Ministry is designing a process to standardize the rate setting process and improve the oversight of placement agencies and residential service providers regarding services being provided and the rates for the services. The system will enable better transparency and accountability for funds. The rate setting system is scheduled to be operational in 2020-21.

**RECOMMENDATION THREE:** The Ministry should be clearly identified, both within the children's service sector and to the public, as the "lead" agency for ensuring that remedial action is taken to address any concerns about a residential service provider.

### **Ministry Response:**

There are many organizations that have a role in responding to concerns about a residential service provider (e.g., the service provider, the placing agency/Children's Aid Societies (societies), the Ministry).

The Ministry has no direct responsibility for the delivery of child protection services, for the placement of children in licensed residential settings, or for the screening and monitoring of potential placements of children in licensed residential settings. The placement of any children with a residential licensee is under the authority of a parent or placing agency, such as the societies.

The licensee holds the licence and is responsible for ensuring compliance with the Act, its regulations, any licence terms and conditions and Ministry policies. The licensee is responsible for the day-to-day operation, hiring and supervision of employees and delivery of services and management of the children's residence.

The Ministry acts in a regulatory capacity. It is responsible for the ongoing assessment of a licensee's compliance with the requirements of the Act, the regulations, licence conditions and any applicable Ministry policies. This assessment is done through licensing inspections and review of documentation submitted to the Ministry, such as serious occurrence reports.

In carrying out its licensing role, the Ministry's focus is on the best interests, protection and well-being of children (the paramount purpose of the Act).

Where there are concerns about child protection respecting residents of residential licensees, societies have the lead in conducting child protection investigations.

**RECOMMENDATION FOUR:** The Ministry should require all residential service providers to immediately notify the Ministry each time it opens or closes a foster home in the Province of Ontario.

### **Ministry Response:**

Currently, the Ministry collects information from foster care agencies about all foster homes at the time of the licensing inspection, including any new and closed homes. The Ministry is developing the SOR-RL IT solution to automate residential licensing business processes and practices. This new solution will allow more real time updates by foster care agencies to their inventory of foster homes across Ontario. As part of this new solution, foster care agencies will be required to enter in any new foster homes and any foster homes that close as they occur in real time, which will allow the Ministry to track this data throughout the year.

**RECOMMENDATION FIVE:** The Ministry should include a Standard Term and Condition for all forms of Licence to Provide Residential Care that requires:

- a) a foster care agency to deliver a copy of the licence (and any subsequent amendments to that licence) to all placing agencies that have a child placed in the home, and to provide the Ministry with confirmation that the licence has been sent; and
- b) a foster care agency to clearly record the schedule of hours that a foster parent, relief staff, and 1 :1 support staff are present working in the home and ensure that this information be made available to the Ministry and placing agencies on request;

**Ministry Response:**

The Ministry is reviewing this recommendation as part of its ongoing work to strengthen the quality of care for children and youth receiving licensed residential services.

**RECOMMENDATION SIX:** Consistent with the 2016 Recommendation #8 of report of the Residential Services Review Panel 88, the Ministry should establish a centralized publicly accessible, web-based directory of all licensed service providers in Ontario that includes basic organizational information and all information related to the licence status of the service provider including: status, terms and conditions, and inspection reports.

**Ministry Response:**

The Ministry is developing a new SOR-RL IT system which is scheduled to be operational in 2019. The Ministry is exploring the development of a search feature that will allow placement agencies to log in and search for residential service providers. The proposed search feature would provide information regarding the service provider, including the status of the licence, any conditions on the licence and a summary of prior inspections.

In addition, the Ministry is supporting the development of Ontario Association of the Children's Aid Societies (OACAS), Outside Paid Resource Assessment (OPR) Management shared service through the Shared Services Implementation Project. Information available to placing agencies through this project includes licence status.

The Ministry is considering next steps to making this information publicly available.

**RECOMMENDATION SEVEN:** The Ministry should amend the Child Protection Standards, 2016 as follows:

- i. to require child protection agencies to report any complaint about a residential service provider directly to the Ministry
- ii. to require an investigating children's aid society to notify the Ministry whenever a child protection investigation involving a residential service provider is initiated, and to advise the Ministry of the outcome of that investigation
- iii. to require an investigating children's aid society to report on the outcomes of all child protection investigations involving a residential service provider to agencies who have a child placed in the residence;

**Ministry Response:**

The Ministry is reviewing this recommendation as part of its ongoing work to strengthen quality of care for children and youth receiving licensed residential services. The Ministry is in the process of revising the Serious Occurrence Reports (SOR) guidelines to clearly articulate which service providers are required to report SORs under what circumstances. The revised guidelines will identify when SORs are required to be submitted from licensed residential service providers and/or societies when the serious occurrence is child protection-related.

The Ministry is also developing a new SOR-RL IT system to facilitate the reporting, tracking and resolution of serious occurrences. The new serious occurrence reporting system, which is scheduled to be operational in 2019, will improve the Ministry's ability to document, investigate and confirm that serious occurrences have been resolved.

In addition, the Ministry is exploring the option of amending the Ontario Child Protection Standards to include a practice note stating that when concluding an investigation of a residential setting, the investigating society informs all agencies which have children placed in the residential setting of the outcome of the child protection investigation.

**RECOMMENDATION EIGHT:** The Ministry should require that all Serious Occurrence Reports include mandatory reporting of the location of the site of each occurrence and not just the address of an agency's head office.

**Ministry Response:**

The Ministry is developing a new information technology solution to automate the submission of SOR to the Ministry from residential licensees. This new solution will require the location of the children's residence or foster home to be identified before a



SOR can be successfully submitted through the new solution. The targeted launch for the new solution is April 30, 2019.

**RECOMMENDATION NINE:** The Ministry should amend the Serious Occurrence Reporting Guidelines to require mandatory reporting to the Ministry of the initiation of all child protection investigations involving residential service providers.

**Ministry Response:**

The Ministry is in the process of revising the SOR guidelines to provide greater clarity related to the expectations for who is to report, under what circumstances reporting is required and what is to be included in the reports.

The SOR guidelines have been revised to align with the new SOR-RL IT system which will be launched in 2019. The Ministry will consider further refinements to the expectations, as appropriate, for future updates to the system.

**RECOMMENDATION TEN:** The Ministry should ensure that all children and youth living in all foster homes operated by a licensed foster care agency are informed, in language suitable to their understanding, each time a licensing review is scheduled to occur and are afforded the right to meet with a Ministry.

**Ministry Response:**

The Ministry is considering this recommendation as part of work in strengthening oversight for children in residential care and to make sure children are advised of their rights.

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