



Association des  
**Grands-Parents**  
du Québec

**For the well-being  
of our  
grandchildren**

Brief submitted to the  
Special Commission on the Rights of the Child  
and Protection of Youth

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## Summary

This brief is addressed to the members of the Special Commission on the Rights of Children and Youth Protection (CSDEPJ).

Since its re-founding as a national organization in 2004, the Grandparents Association of Québec (AGPQ) has received thousands of accounts from grandparents who have experienced, among other things, problems with the Directorate of Youth Protection (DPJ).

Most often, grandparents contact us to find support that is not currently available through the system. We often talk about the problems their family members are experiencing. They tell us about their difficulties with the DPJ or the parents in order to continue seeing their grandchildren.

The purpose of this submission is to provide recommendations to improve the current system and ensure that the child remains the priority. It is also important for us that the system makes room for family members who want to be part of the solution, especially grandparents.

In a nutshell, the AGPQ is calling for a system that deals with human problems and treats them fairly and with understanding and with empathy. It is important for us that the recommendations made by the CSDEPJ prioritize the child and his needs in the changes that will have to be made. Also, it is clear to us that family members who wish to be part of the solution have a greater place in the various processes used to ensure the well-being and healthy development of children.

The youth rights protection system must increase its coherence and effectiveness. In this sense, we believe it is essential that the work of the CSDEPJ and the work of the family law reform go in the same direction, because they are closely linked. Indeed, it is clear that these two reforms go hand in hand and that improvements in one will influence the other. In our opinion, there is no doubt that the good treatment of children in Québec will be successful thanks to a continuum of measures, interventions and principles for which several stakeholders have responsibilities. This is why we believe that a concerted effort must be made within the government to ensure consistency between these two important approaches for the protection of our children.

In light of the positions and stories put forward in this brief, the AGPQ submits several recommendations to the CSDEPJ aimed at increasing the effectiveness and efficiency of services and providing better support to family members experiencing difficulties.

## Presentation of the Grandparents' Association of Québec

The AGPQ was founded in 1990 and is a national organization dedicated to defending the rights and interests of grandparents, grandchildren and extended families. The AGPQ extended its action to all of Québec in 2004. Over the years, we have become a reference for seniors in matters of family conflict. Our mission is to:

- Advocate for the rights of grandparents and elders who are victims of abuse or exploitation;
- Raise awareness among the authorities regarding the problems encountered;
- Recognize the importance of the role of grandparents and seniors in society, with families and grandchildren;
- Helping grandparents and seniors experiencing difficulties in a family context;
- Helping grandparents support their grandchildren and their grandchildren's parents.

Every year, dozens of government and community organizations refer seniors to our Association, including:

- Local community service centres (CLSCs);
- Community justice centres;
- Youth centres;
- The Youth Protection Branch (DPJ);
- Seniors' organizations;
- Maisons de la famille;
- Etc.

Each year, our seniors and grandparents helpline receives an average of 1,000 calls.

Finally, the AGPQ pursues its mission keeping in mind the principle of law proposed by Judge Jean-Pierre Sénécal in 1995:

"(...) contacts between grandchildren and grandparents are a great asset for the child, the grandparents and society. They are undoubtedly a great source of joy, affection, learning and knowledge (and vice versa). Contacts between generations are in fact a unique source of mutual contributions, not only precious but indispensable, and this, once again, both for those involved and for society as a whole."

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<sup>1</sup> Excerpt from Droit de la famille-2216 [1995] R. J. Q. 1734, 1738 (S. C.) by Jean-Pierre Sénécal.

## Access to justice and confidentiality

In many family matters access to family is often not possible due to financial reasons. The regional directorates of youth protection are called upon to intervene in cases of difficult break-ups that lead to complex situations such as cases of family violence, parental alienation and false allegations.

It is important to understand that the Youth Protection Branch (DPJ) has many resources available to it in the event that its decisions are challenged. However, parents and grandparents often have limited resources to defend themselves before the courts. The procedures currently in place do not allow grandparents to represent themselves alone. In this sense, they must request, with the help of a lawyer, permission from the youth court to be recognized as a party to a child's case when they are part of the same family. This is just one of many situations where grandparents have to seek legal counsel in order to participate in the processes used to protect their grandchildren. In addition, it is important to consider that more than one grandparent is not eligible for legal aid because their retirement income exceeds the minimum thresholds for eligibility for legal aid. For these grandparents, intervening on behalf of their grandchildren becomes an impossible task.

### Recommendation 1

During the last reform of the Youth Protection Act, the legislator formally included grandparents.

That measures be put in place now in order to implement them.

### Recommendation 2

That measures be taken for families to facilitate their access to the justice system.

Similarly, we note with regret that the confidentiality established to protect children is too often used to protect the errors or even abuses of certain YPB workers. Whistleblowers within the youth protection system must no longer be victims of reprisals. Grandparents and other extended family members who report to the YPB are at great risk. In fact, parents at fault regularly find out who made the report, directly from YPB workers. On other occasions, the information provided by stakeholders allows offending parents to identify who made the report, due to the lack of mechanisms to ensure the protection and confidentiality of whistleblowers.

At present, the guidelines for protecting and ensuring the confidentiality of people making a report to the YPB are not always respected, despite their primary role in reporting child abuse.

In recent days, the government has announced a pilot project to help victims of sexual violence in order to facilitate reporting. Without commenting on the feasibility of a similar project in youth protection, we should mobilize and be inventive to ensure that we protect our children even better.

**Recommendation 3**

That a whistleblower protection system be put in place to avoid reprisals against those who report problematic situations involving children.

## The role of grandparents in the lives of their grandchildren

In many cases where grandparents find that their grandchildren are being neglected or abused by their parents, the elders will decide, with the consent of parental authority, to take charge of the children. Sometimes, these grandparents experience fatigue and need rest and help their CLSC. This form of assistance is often granted to parents in such situations. The children are then transferred to foster families. The YPB requests the grandparents' help to facilitate the transfer. The grandparents are then promised easy access to their grandchildren. However, the grandparents, who had de facto custody of the grandchildren, may have their right of access restricted under the pretext that the children must be allowed to "integrate better" in their new foster family.

For very young children, the YPB will instead look for a family ready to adopt. However, certain practices are currently flawed. The legislative provisions and case law on adoption ensure that if a strong attachment bond is maintained between the child and his or her biological family, the adoption could be refused by the court. Grandparents are therefore unable to maintain a close relationship with their grandchildren in this context. We even notice an effort to blunt the bond of attachment between the biological family and the child in order to facilitate adoption. Such an approach runs counter to the YPB's raison d'être, which is to ensure the protection of the child.

Similarly, the *Act to amend the Civil Code and other legislative provisions as regards adoption and communication of information* (2017, chapter 12) prohibits, except in certain exceptional situations, anything other than full adoption. However, since the Act came into force, there have been no de facto exceptions.

According to *Le Soleil* from December 5: "(The social workers) threatened to cut back on contact because when my son came back to the centre he was sad. He would take me in his arms and say, "I don't want to go back to the centre, I want to stay with you. "They took it for granted that my meetings were upsetting him and the only solution they found was to offer to reduce contacts ". By the same token, this kind of pretext is perceived as upsetting the child and YPBs often see it as a pretext to reduce grandparents' access to the child.

In other contexts, some of our members have reported to us that they have lost visiting privileges because they complained about the treatment their grandchild was receiving in his foster home. In this regard, the AGPQ has supported several grandparents in their dealings with the YPB. However, there are very few effective ways for citizens to complain about the work done by the YPB management.

### **Recommendation 4**

That legislative measures be put in place to enable adopted children to retain their right to maintain relations with their biological grandparents, in accordance with the best interests of the child.

**Recommendation 5**

That the protocols in place be reviewed in order to take into account and recognize the role of grandparents who devote themselves to their grandchildren who are neglected or abused by their parents.

**Recommendation 6**

That a credible and effective supervisory mechanism for youth welfare decision-making bodies be established.

## The bond between the child and the biological parent

In many cases, we receive calls from grandparents who have had custody of their grandchildren taken away from them despite the child's desire to stay with their grandparents. Furthermore, grandparents may not even have any contact with the child once the child has returned to his or her biological parents.

For example, a grandfather who was a member of the Association had had custody of his grandson for two years. Everything was going well for him and his wife. The child had reported all kinds of physical and psychological abuse from his mother and his various spouses. Following a decision by the YPB, the child had to return to his mother's home, and for six years the grandfather did not know where the child or his mother was. Six years later, he learned that his grandson had been sent to a juvenile facility as a young offender. The grandfather contacted the juvenile facility and worked with the social workers. The grandfather was allowed to take him home on certain weekends.

This teenager was clearly suffering from post-traumatic stress disorder as a result of his mother's abuse. He became stressed and violent after each contact with his mother. The YPB has consistently refused to cut off these contacts. "She's the mother," the social workers said. In the end, the child was sentenced to two years in prison at the age of 17.

This example is just one of many. Of course, we fully understand that a parent has parental authority, but he or she also has responsibilities toward the child that he or she has brought into the world. Furthermore, we are aware that some parents find the right path and succeed in developing a healthy relationship with their children. However, we believe that the youth protection system must focus more on the child, who is the victim, rather than on the parents who are at fault. In that sense, we would like to remind the House that parents also have responsibilities toward their children. The YPB must also take into account any failure to respect these responsibilities, as well as the child's attachment to his or her biological family, including grandparents.

## The impartiality of the stakeholders

Following several testimonies from our members, the AGPQ questions the independence of certain stakeholders. It is important to note that we have no doubts about the goodwill of all stakeholders. However, the current structures and the proximity of the social workers to the intervention environment (specifically in rural areas) leave room for doubt as to the ability of each one to remain impartial and objective. What should we think about situations where YPB social workers are selected as foster families?

In the case of evaluations (psychological, psychoeducational, orthopedagogical, social work, etc.), the AGPQ has reservations about the independence of a professional, especially when the latter receives the majority of his or her expertise from the YPB. However, we note that it is still important for the YPB to be able to have expert evaluations done by professionals.

While it is important that all stakeholders work together and communicate with each other to ensure effective and efficient follow-up with the child and the family, we believe it is also important that mechanisms be put in place to ensure that everyone can do their job properly and impartially.

### Recommendation 7

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**Recommendation 7** Mechanisms be put in place with stakeholders to ensure that there is no bias or prejudice that could be detrimental to children, parents and grandparents.

That a body be given the powers, human and financial resources to oversee the Youth Protection Directorates. (Human Rights and Youth Rights Commission or others).

## Spousal violence, parental alienation and false allegations

As we have mentioned several times, the work of the YPB stakeholders is complex and demanding. However, in addition to the lack of resources, we believe it is important to review some of the training they receive. On the one hand, we believe that all workers must receive adequate basic training and have access to ongoing training activities in order to be able to judiciously apprehend the dynamics of conjugal violence and parental alienation.

With respect to training, the *Final Report of the Citizens Commission on Family Law*<sup>2</sup> explains, on page 3:

« Le système judiciaire n'est pas en mesure d'appréhender adéquatement les dynamiques de violence conjugale et d'aliénation parentale qui peuvent se greffer aux conflits familiaux ; les outils de prévention et de détection de tels phénomènes font cruellement défaut, au détriment des victimes, parmi lesquelles se trouvent les enfants ».

Here is our free translation:

"The judicial system is not in a position to adequately apprehend the dynamics of conjugal violence and parental alienation that can be added to family conflicts; the tools to prevent and detect such phenomena are sorely lacking, to the detriment of the victims, among whom are the children."

We can also read about it on page 30:

« Les phénomènes que sont la violence conjugale et l'aliénation parentale ont occupé une large part des travaux de la Commission. Aux termes de témoignages parfois émouvants, des victimes ont lancé un véritable cri du cœur aux autorités gouvernementales. La violence conjugale et l'aliénation parentale causent des ravages, détruisent des vies et compromettent l'avenir de nombreux conjoints, parents et enfants. Tous les acteurs du système de justice familiale doivent en être pleinement conscients et agir en conséquence. »

Here is our free translation:

"The phenomena of spousal violence and parental alienation have occupied a large part of the Commission's work. Through sometimes moving testimonies, victims have sent a real cry from the heart to government authorities. Spousal violence and parental alienation wreak havoc, destroy lives and compromise the future of many spouses, parents and children. All players in the family justice system must be fully aware of this and act accordingly."

However, while a review of the judicial system is necessary to better manage cases of conjugal violence and parental alienation, workers must be trained to develop an excellent knowledge of the tools needed to counter this type of problem. In addition, improved training, a review of intervention protocols and the creation of a body that can ensure the impartiality of social workers are among the changes that should enable the various social workers to do their work adequately on a clinical level.

### **Recommendation 9**

That workers working with families receive the training required to make an informed judgment in situations where there is family violence, parental alienation, cross-accusations, false allegations, physical or sexual abuse.

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<sup>2</sup> ROY, Alain and DUTRISAC, Jean Paul, *Final Report*, Citizens Commission on Family Law, September 2018, [https://commissions.undefamille.com/uploads/wysiwyg/20180910\\_Rapport\\_CCDF\\_final\\_v2.pdf](https://commissions.undefamille.com/uploads/wysiwyg/20180910_Rapport_CCDF_final_v2.pdf)

## List of recommendations

1. During the last reform of the Youth Protection Act, the legislator formally included grandparents in the Act. That measures now be put in place to give concrete expression to its application.
  2. That measures be taken for families to facilitate their access to the justice system.
- A whistleblower protection system should be put in place to avoid reprisals against those who report problematic situations involving children.
4. That legislative measures be put in place to enable adopted children to retain their right to maintain a bond with their biological grandparents, in accordance with the best interests of the child.
  5. That the protocols in place be reviewed to take into account and recognize the role of grandparents who devote themselves to their grandchildren who have been neglected or abused by their parents.
  6. That a credible and effective supervisory mechanism for youth welfare decision-making bodies be set up.
  7. That monitoring mechanisms be put in place with stakeholders to ensure that there is no bias or prejudice that could be harmful to children, parents and grandparents.
  8. That a body be given the powers, human and financial resources to oversee the Youth Protection Directorates. (Human Rights and Youth Rights Commission or others).
  9. That workers working with families receive the training required to make an informed judgment in situations where there is family violence, parental alienation, cross-accusations, false allegations, physical and sexual abuse.