



PUBLIC GUARDIAN
AND TRUSTEE OF
BRITISH COLUMBIA

Child and Youth Guardianship Services 2010/2011 Report

Proudly Serving British Columbians since 1963

Our Mission

The Public Guardian and Trustee (PGT) mission is to safeguard and uphold the legal and financial interests of children; manage the legal, financial and personal care interests of adults needing assistance in decision making; and administer the estates of deceased and missing persons.

Our Values

Seven major values underpin PGT work and are reflected in all aspects of its performance:

1. **Integrity:** As a fiduciary, the PGT and staff act in accordance with the highest ethical, legal and personal standards.
2. **Client centred service:** Clients are the focus of PGT services and PGT staff constantly strive to provide quality customer service.
3. **Openness:** Annual statutory public reporting on all aspects of PGT performance ensures accountability and transparency to clients, government and the public.
4. **Respect:** We treat clients, family and friends in a courteous, respectful manner.
5. **Teamwork:** PGT staff work with one another and with service partners in striving for seamless service delivery.
6. **Staff support:** Staff members are acknowledged to be the greatest resource of the PGT and are recognized and appreciated for their expertise and professionalism.
7. **Innovation:** PGT staff are encouraged to be alert to new and better ways of delivering service and helping clients.

Executive Summary

This is the third annual report on the services provided by the Public Guardian and Trustee (PGT) to minor children and youth for whom the PGT is Guardian of Estate. Most of these young people are in continuing care of the Province. This report outlines the services provided by the PGT, the challenges in delivering these services and makes recommendations for continued improvement.

The PGT delivers this aspect of its mandate through its Child and Youth Services division which provides services to approximately 20,800 child and youth clients. These services include Guardian of Estate, Trustee and Protective Legal Review services. The focus of this report is Guardian of Estate services delivered by the PGT between April 1, 2010 and March 31, 2011. However, data from previous years is also presented for a fuller understanding.

The PGT was Guardian of Estate for 5,264 children and youth at March 31, 2011. Part 1 (Introduction) provides general information on the child protection system in British Columbia and the role of the PGT in child guardianship.

Part 2 (Guardian of Estate Services) describes the services provided to PGT Guardian of Estate clients. The PGT is coguardian with the Ministry of Children and Family Development (MCFD) or Delegated Aboriginal Child and Family Service Agencies (DAAs) for all children under a continuing custody order. This represents the majority of children and youth for whom the PGT is Guardian of Estate. This section of the report also identifies and summarizes demographic information regarding these children.

Part 3 (Critical Incident Reports) is a summary of the critical incident reports (CIRs) received primarily from MCFD and DAAs for children for whom the PGT is Guardian of Estate. The PGT reviews each report and determines whether further action is required to protect the legal or financial interests of the child. In addition to a statistical summary of the reports, this section describes the types of reports and response of the PGT to the reports. For example, the PGT received 672 CIRs involving 487 children during 2010/11, of which two or more reports were received for 119 children. No harm occurred in 253 (38%) of the reported incidents so there was no basis for legal action and the PGT took no further action.

Harm occurred in 419 of the incidents. The following are examples of incidents in which a child or youth allegedly experienced harm:

- Physical and/or sexual assault accounted for 241 (58%) incidents.
- Motor vehicle accidents accounted for 51 (12%) incidents.
- Suicide attempts accounted for 20 (5%) incidents.

Of the incidents in which harm occurred, 100 involved incidents in which no persons were alleged to have harmed the child or youth, for example a medical emergency. Of the incidents in which harm occurred, 319 involved an alleged harmer, that is, a person who allegedly directly harmed a child, whether intentionally or by accident. Examples include the following:

- 51 (16%) of the incidents involved foster parent(s) or unrelated caregivers.
- 74 (23%) of the incidents involved other friend(s) or acquaintance(s), and boyfriends, girlfriends or spouses.
- 56 (18%) of the incidents involved parents and other relatives as the alleged harmer(s).

Readers should exercise caution in further interpretation of the critical incident data in this report. It is drawn from critical incident reports as submitted to the PGT and has been categorized by the PGT as described in Appendix 2. No conclusions regarding the allegations contained in these critical incident reports should be drawn from their inclusion in this report. This report is about Guardian of Estate services delivered by the PGT. This report does not refer to services provided to children and youth by other organizations.

Part 4 (The Way Forward) outlines some of the major challenges to the delivery of child guardianship services and makes recommendations for improvements.

Appendices include a Glossary of Terms and Acronyms, a description of the classification systems applied to CIRs by the PGT and additional statistical results.



Message from the Public Guardian and Trustee

I am pleased to issue the third annual report of the activities of the Public Guardian and Trustee (PGT) in its role as Guardian of Estate for children in continuing care.

This report provides information about the range of PGT guardianship services, the achievements and the challenges involved in acting as the public Guardian of Estate as well as current information about critical incidents reports received on behalf of the PGT's child clients and the PGT's response to those reports.

As Guardian of Estate, the PGT protects the legal and financial interests of the children it serves. For each child in continuing care, the PGT shares guardianship responsibilities with the Ministry of Children and Family Development (MCFD) or one of the Delegated Aboriginal Child and Family Service Agencies (DAAs) who act as the child's Guardian of Person.

During the past year, the PGT reviewed over 600 critical incident reports received from MCFD or one of the DAAs. These critical incident reports detail situations where a child may have been injured or was at risk of harm. Where viable legal claims were identified, the PGT commenced law suits on behalf of its child clients. Over the past four years, the PGT has recovered more than \$4 million for children in continuing care by way of judgments, settlements and other outcomes.

The PGT carries out its duties as Guardian of Estate within the larger framework of the provincial child welfare system. From this vantage point and with the experience of serving children in continuing care, the PGT has had the opportunity to identify a variety of issues which pose risks to the best interests of its child clients, and to seek resolution of such issues.

In previous Guardian of Estate reports, the PGT made recommendations directed at improving the quality of critical incident reporting, particularly by MCFD to the PGT. Ongoing discussions about reporting standards between MCFD and the PGT supported by the Representative for Children and Youth (RCY), has led to some improvement in reporting practices. The PGT looks forward to continuing collaboration with MCFD and RCY to further improve the quality of critical incident reporting.



“The PGT remains committed to enabling the best outcomes for children in continuing care.”

A continuing theme of Guardianship of Estate reports has been the PGT’s concern that children receiving provincial services under alternate care arrangements do not have an effective Guardian of Estate to protect their legal and financial interests. With few exceptions, under BC laws, public Guardianship of Estate services are provided only to children in continuing care. At the same time, the number of children receiving provincial services through alternate care arrangements continues to rise. These children are unlikely to have a parent or private guardian who is able to act as Guardian of Estate and so the legal and financial interests of these children remain largely unattended. This gap in protective services available to vulnerable children in care continues to exist and must be addressed.

A growing concern for the PGT is its ability to provide effective transition planning to its Guardian of Estate clients. In addition to building the financial literacy of its child clients as they take on the responsibilities of independent management of their financial and legal affairs, the PGT has also taken steps to establish Registered Disability Savings Plans (RDSPs) and to consider plans for establishing Registered Education Savings Plans (RESPs) for its eligible child clients to improve their chances for success in adulthood. However, the resources required for the PGT to provide effective transition planning for children in care are significant and cannot be met within current funding allocations. While the PGT is pleased with the progress that has been made with respect to these issues, much work remains to be done and the PGT continues in its efforts to provide quality Guardianship of Estate services within available resources.

As the complexities of service delivery continue to evolve, the PGT remains committed to enabling the best outcomes for children in continuing care. As such, the PGT looks forward to working together with its coguardians, MCFD and the DAAs, and to collaborate with government and external partners in striving to improve outcomes for children in care.

Original signed by

Catherine Romanko
Public Guardian and Trustee



TABLE OF CONTENTS

Executive Summary	i
Message from the Public Guardian and Trustee	3
Part 1. Introduction	7
Part 2. Guardian of Estate Services	11
Part 3. Critical Incident Reports	21
Part 4. The Way Forward	33

TABLES

Table 1	PGT Guardian of Estate clients by age category at Mar 31, 2011	13
Table 2	Regional distribution of children in continuing care at Mar 31, 2011	14
Table 3	Financial benefits, Apr 1, 2010 – Mar 31, 2011.....	15
Table 4	Number of Guardian of Estate legal matters, Apr 1, 2007 – Mar 31, 2011	16
Table 5	Types of Guardian of Estate legal matters, Apr 1, 2007 to Mar 31, 2011	17
Table 6	Outcomes of Guardian of Estate legal matters, Apr 1, 2007 – Mar 31, 2011	18
Table 7	Amounts collected through Guardian of Estate legal actions, Apr 1, 2007 – Mar 31, 2011	19
Table 8	Critical incident reports for unique individuals, Apr 1, 2010 – Mar 31, 2011	25
Table 9	Critical incident reports by incident type where child experienced harm, Apr 1, 2010 – Mar 31, 2011	26
Table 10	Critical incident reports by person alleged to have harmed the child, Apr 1, 2010 – Mar 31, 2011	28
Table 11	Critical incident reports by age category for unique individuals, Apr 1, 2010 – Mar 31, 2011.....	29
Table 12	Frequency of incident types by age category on date of incident, Apr 1, 2010 – Mar 31, 2011	30
Table 13	MCFD region reporting critical incidents, Apr 1, 2010 – Mar 31, 2011	31
Table 14	Outcome of GTO review of critical incident reports for reviews occurring Apr 1, 2010 – Mar 31, 2011	32

FIGURES

Figure 1	PGT review of critical incident reports.....	22
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APPENDICES AND DATA TABLES

Appendix 1. Glossary of Acronyms and Terms	40	
Acronyms	41	
Terms	41	
Appendix 2. PGT Classification of Critical Incident Reports.....	43	
Incident Types.....	44	
Alleged Harmers	45	
Appendix 3. Data Tables	46	
Table A	Critical incident reports by incident type where child experienced harm, Apr 1, 2007 – Mar 31, 2010	47
Table B	Critical incident reports by person alleged to have harmed the child, Apr 1, 2007 – Mar 31, 2010	48
Table C	Alleged harmer by frequency of incident types, Apr 1, 2007 – Mar 31, 2010	49
Table D	Frequency of categories of alleged harmer by age category of child, Apr 1, 2007 – Mar 31, 2010	50
Table E	Critical incident types by gender of child, Apr 1, 2007 – Mar 31, 2010.....	51
Table F	Alleged harmer by gender of child, Apr 1, 2007 – Mar 31, 2010.....	52
Table G	Frequency of incident types by Aboriginal identity of child, Apr 1, 2007 – Mar 31, 2010	53
Table H	Outcome of GTO review by incident type, Apr 1, 2007 – Mar 31, 2010	54
Table I	Frequency of incident types by age category on date of Incident, Apr 1, 2007 – Mar 31, 2010	55

PART 1. Introduction



CHILD PROTECTION AND GUARDIANSHIP

The delivery of child protection and guardianship services in British Columbia involves the following public agencies, elected officials and Courts. While all share the common goal of supporting children at risk, each has a unique role.

Ministry of Children and Family Development (MCFD) – takes children at risk into care and ensures their day to day needs are met as Guardian of Person; coguardian with the PGT for children in continuing care

Delegated Aboriginal Child and Family Service Agencies (DAAs) – Aboriginal agencies with statutory delegated authority for child protective services for Aboriginal children and youth at risk as well as non statutory voluntary services; some DAAs have Guardian of Person responsibilities and are coguardian with the PGT for children in continuing care

Supreme Court of British Columbia – with respect to matters of Guardianship of Estate, the Supreme Court may hear matters of custody, property interests and claims for damages for personal injury

Provincial Court of British Columbia - with respect to matters of Guardianship of Estate, the Provincial Court grants child protection orders including Continuing Custody Orders, may order transfer of guardianship, and adjudicates small claims involving personal injury

Representative for Children and Youth (RCY) – Officer of the BC Legislature responsible for monitoring child protection services in BC

Public Guardian and Trustee (PGT) – as Guardian of Estate, protects the legal and financial interests of minor children; coguardian with MCFD and DAAs for children in continuing care

Select Standing Committee on Children and Youth – committee established by the BC Legislature to provide legislative oversight on provincial services to children

Children's Forum – information sharing forum for BC senior officials with an interest in child protection and related services; includes the PGT, MCFD, RCY, Chief Coroner, Provincial Health Officer and Ombudsperson

PART 1. INTRODUCTION

Legal responsibilities for protecting the interests of children in British Columbia are shared by parents, other guardians and a number of public institutions and organizations. These responsibilities are of particular significance with respect to children and youth in continuing care of the Province.

The Public Guardian and Trustee of British Columbia (PGT) provides a range of protective services to children and youth. In particular, the PGT protects the legal and financial interests of children and youth in continuing care of the Province by acting as their Guardian of Estate.

This report describes PGT child guardianship services during 2010/11. It also provides an analysis of critical incident reports and comments on challenges in delivering and improving future service delivery.

Readers should note that this report focuses on activities of the PGT rather than of the entire child protection system. This means that some of the data reported may vary from that reported by MCFD or other agencies.

Photos are representations of children in different age groups and are not photos of actual children served by the PGT as Guardian of Estate.

About the Public Guardian and Trustee of British Columbia

The PGT has a unique statutory role to protect the financial and legal interests of British Columbians who lack legal capacity to protect their own interests. Specifically, the PGT mission is to:

- Protect the legal and financial interests of children and youth under the age of 19;
- Protect the legal rights, financial interests and personal care interests of adults who require assistance in decision making; and
- Administer the estates of deceased and missing persons when there is no one willing and able to do so and the beneficiaries of personal trusts.

The PGT operates through three primary program areas: Child and Youth Services, Services to Adults and Estate and Personal Trust Services. These services are provided by the combined effort of 246 dedicated individuals and expenditures of about \$24 million. The PGT is largely funded by fees and commissions charged to clients and also receives voted funds from the BC provincial government.

As of March 31, 2011, the PGT managed \$860 million of client assets and had served approximately 31,700 clients throughout the fiscal year. Children and youth comprise close to 20,800 of PGT clients and their assets are valued at more than \$185 million.

More information about the PGT is available at www.trustee.bc.ca or through the contact information listed in this report.

PGT Child and Youth Services

The PGT acts on behalf of minor children and youth under a number of provincial laws. This work can be grouped into three broad service categories:

Guardian of Estate: The PGT protects the legal and financial interests of children and youth in the continuing care of the Province, or those undergoing adoption, orphans, and in some limited cases, children in temporary care. More details on these services are provided in Part 2 of this report.

Trustee: The PGT invests and manages funds for children in a number of different situations. These funds may include personal injury settlements or court awards (such as from motor vehicle accidents), life insurance payments or inheritances. Funds also include part of the wages paid to child actors. Funds are typically held in trust until the child turns 19, but may be used earlier if it is in the best interests of the minor.

Protective legal reviews: The PGT reviews all proposed settlements of personal injury or family compensation claims involving minors to ensure the settlements are in the best interests of the children or youth. For example, such claims may relate to motor vehicle accidents, medical malpractice or the death of a parent or guardian. The PGT also investigates concerns about trusts and estates in which a minor may have an interest to ensure that the minor's interests are protected.

PGT guardianship and trustee duties for children and youth often overlap. For example, some children in continuing care are orphans who have inherited the estates of their parents. Other children own property or investments. In all instances, the PGT manages these assets in the best interests of the child.

The PGT is independent of all governments and other organizations in its case related decision making responsibilities. The PGT has a fiduciary duty to advance the private interests of its clients even when they conflict with those of government or other organizations.

PGT Child and Youth Services 2010/11

Total Staff:	44
Total Clients*:	20,848
Guardianship	6,505
Trust	11,646
Legal	3,798
Financial indicators:	
Revenue (Actual)	\$3.0 million
Expenses (Actual)	\$7.5 million
Total value of assets under administration (at March 31, 2011):	\$185.3 million
Investments and securities	\$179 million
Real property	\$5.9 million
Other	\$0.4 million

* Client counts reflect the number of individual clients by both program area and by division. Because of this, the division total does not equal the sum of the program areas as clients may be served by more than one area.

PART 2. Guardian of Estate Services



PART 2. GUARDIAN OF ESTATE SERVICES

When children lose their parents and have no one else to look after them, or when parents are no longer able to look after their children, the Province takes on the duties of guardian. These minor children and youth are among the most vulnerable members of society.

The law of British Columbia splits the duties of guardianship into two parts:

- **Guardian of Person** – finding a safe home where the child or youth can grow to adulthood and otherwise providing a parenting role to the minor. This role is taken on by MCFD or DAAs.
- **Guardian of Estate** – looking after the financial and legal interests of the child or youth. This role is performed by the PGT.

Dividing guardianship duties is in the best interests of the child as it avoids conflict of interest situations. Protecting a minor's financial and legal interests may mean disagreeing with the coguardian or taking legal action in cases of potential negligence. As a result, the role of financial and legal guardian is better suited to an independent agency such as the PGT than to the Guardian of Person agency that could find itself in a conflict of interest.

PGT duties as Guardian of Estate are based on provincial law as outlined in the *Public Guardian and Trustee Act*; the *Child, Family and Community Service Act*; the *Adoption Act*; the *Infants Act*; and the *Family Relations Act*.

The PGT provides Guardian of Estate services to minor children and youth in BC if they:

- have a living parent(s) or guardian(s), but the courts have directed the Province to take on the continuing role of raising the children as the natural parent(s) or guardian(s) can no longer do so;
- have no surviving parent or legal guardian; or
- are undergoing adoption.

In limited circumstances, the PGT may also provide Guardian of Estate services to children in the temporary care of the Province.

Becoming a Guardian of Estate Client

Each month, approximately 90 children or youth become guardianship clients of the PGT, usually due to a continuing custody order being granted by the Provincial Court of British Columbia. At December 31, 2010, approximately 58% of the children in care of MCFD and DAAs had been the subject of a continuing custody order and thus received Guardian of Estate services from the PGT. The remaining 42% received services under an alternative care arrangement and therefore the PGT was not their guardian.

When the court places a child in continuing care, the law requires the Guardian of Person - MCFD or DAAs - to notify the PGT that the court has made this order. The PGT relies on this notification because, under the law, it has no direct involvement in the child protection court proceedings prior to the granting of a continuing custody order.

Serving Aboriginal Children and Youth

When acting as Guardian of Estate, the PGT is coguardian with the organization acting as Guardian of Person for children and youth. In the past, this was almost exclusively MCFD,

but now increasingly includes Delegated Aboriginal Child and Family Service Agencies (DAAs) because MCFD has been negotiating transfer of child protection and guardianship responsibilities for Aboriginal children in care to Aboriginal Child and Family Service Agencies.

Currently there are 30 DAAs representing 148 First Nations in BC. Of these, 19 have statutory responsibility for guardianship duties. At March 31, 2011, representing a 3% increase from the same point last year, DAAs served 32% of BC children for whom a continuing custody order had been granted. As of December 2010, MCFD reported that 55% of all children in care were Aboriginal. As Aboriginal children are a large proportion of the children in care in BC, they are a large proportion of the children served by the PGT as Guardian of Estate.

The ongoing MCFD initiative to transfer the role of Guardian of Person from MCFD to First Nations and Aboriginal communities continues to have a significant impact on the PGT. Under this strategy, DAAs assume differing levels of responsibility from MCFD for Aboriginal children requiring child protection and guardian services.

For the 19 DAAs with guardianship authority, the PGT becomes coguardian with the Delegated Agency rather than MCFD. An overarching protocol between MCFD and the PGT applies to DAAs unless an individual protocol has been developed. To date, there is a separate protocol with the Vancouver Aboriginal Child and Family Services Society.

Children Served by the PGT as Guardian of Estate

Unless otherwise stated, all statistics reported here are drawn from PGT data. Percentages have been rounded to the nearest whole number except where it is less than one half of one percent.

Throughout 2010/11, the PGT served a total of 6,505 children and youth as Guardian of Estate. At March 31, 2011, there were 5,264 Guardian of Estate clients. Of these, boys (54%) slightly outnumbered girls (46%).

Age Distribution

Older teens made up the largest group of Guardian of Estate clients (47% as of March 31, 2011), as demonstrated in Table 1. This table reflects age of the child or youth for which the PGT was Guardian of Estate as of March 31, 2011.

Table 1: PGT Guardian of Estate clients by age category at Mar 31, 2011

Age Category	No. of children	% of children
0 - 4 years	725	14%
5 - 9 years	790	15%
10 - 14 years	1,251	24%
15 - 18 years	2,498	47%
Total	5,264	

This age distribution does not include a small number of former Guardian of Estate clients for whom the PGT holds trust funds even though they have achieved majority. In these instances, the PGT is seeking to locate the former clients but provides no other services to them.

Regional Distribution

The following table (Table 2) reports regional distribution of children under continuing custody orders as reported by MCFD. DAAs are organized in accordance with MCFD regions.

Table 2: Regional distribution of children in continuing care at Mar 31, 2011

MCFD Region	% of children residing in region	Within MCFD Region	
		Served by MCFD	Served by DAAs
Fraser	25%	60%	40%
Interior	20%	85%	15%
Vancouver Island	21%	72%	28%
Vancouver Coastal	22%	61%	39%
North	12%	61%	39%
		68%	32%

Source: MCFD

Note: Eight children served from MCFD headquarters have been excluded.

Delivering Guardian of Estate Services

The PGT delivers Guardian of Estate services through three teams in the Child and Youth Services Division (CYS) - Legal, Guardianship and Financial.

The CYS Legal Team includes staff lawyers, paralegals, and legal support staff who work together to ensure that children and youth served by the PGT as Guardian of Estate are represented when they need legal assistance. The team pursues all types of civil legal actions such as advancing claims for damages arising from motor vehicle accidents, ensuring that children and youth receive inheritances to which they may be entitled and initiating claims for damages for personal injury such as damages for loss and injury arising from physical and sexual assault.

The CYS Guardianship Team includes professional and administrative staff responsible for the day to day management of minors' financial and legal interests. The team identifies financial benefits to be pursued (e.g. Canada Pension Plan (CPP) Children's Benefits and Registered Disability Savings Bonds) as well as legal issues that should be brought to the attention of the Legal Team. If a child or youth receives a large sum of money, a Guardianship and Trust Officer (GTO) develops an investment plan.

The GTO is directly responsible for working with the social worker, the foster parents or any other person who may be involved in supporting the child or youth. Each child or youth in continuing care has a specific GTO working for them whose responsibility is to be the main point of contact for the minor and for agencies acting as Guardian of Person.

The CYS Financial Team acts after the Guardianship Team has identified and applied for any funds or the Legal Team has settled a claim on behalf of a child or youth. The Financial Team ensures the money is placed in an individual account held by the PGT. The team disburses funds on behalf of a child or youth when requested by the GTO. It oversees the process when youth turning 19 years old are required to submit identification and complete documentation so

they can receive funds that the PGT may be holding for them. The team also provides general financial advice and guidance to these youth, such as how to establish a personal bank account.

Taking Appropriate Action

Once a child's circumstances are understood, the PGT takes all appropriate actions, such as:

- applying for funds owed to the child, for example, the CPP Children's Benefit in the case of the death of a parent;
- launching legal actions or lawsuits to protect the child's interests;
- negotiating settlements for damages owed to the child, often due to a motor vehicle accident where the child was injured or the child's parents were killed; and
- placing all funds in a trust account under prudent financial management until the child turns 19 years old.

GTOs update each child's information annually and take whatever action is needed. More frequent updates occur when the PGT is notified of a change in circumstances or when a critical incident report (CIR) is received from MCFD or a DAA (see Part 3 for more details).

The PGT provides annual status updates on each child to MCFD and DAAs as part of its annual review process.

Financial Services

The PGT pursues a wide range of financial entitlements and benefits on behalf of children and youth that it serves as Guardian of Estate. During 2010/11 the PGT collected over \$1 million on their behalf, as detailed in the following table (Table 3). Funds received from court actions or settlements are not included in this table as they are not considered to be entitlements. These funds are detailed in Table 7 in the Legal Services section.

Table 3: Financial benefits, Apr 1, 2010 - Mar 31, 2011

Benefit	No. of Children	Amount*
CPP Children's Benefit	257	\$797,558
CPP Disabled Contributor's Child's Benefit	28	\$75,860
ICBC Death Benefit (one time)	3	\$52,520
Crime Victims Assistance Program	11	\$38,009
Worksafe BC Disability/Pension	6	\$19,192
Annuities	1	\$24,869
Total	306	\$1,008,007

*Rounded to nearest dollar

At March 31, 2011, 9.4% of all the children and youth served as Guardian of Estate had trust accounts including their funds derived from all sources. The average value of their trust accounts was \$13,889. While the PGT charges fees and commissions associated with trust accounts, it does not charge fees for funds such as CPP Disability Benefits that would otherwise have been paid directly to a parent.

The federal government has developed new financial entitlement programs of potential benefit to some or all children and youth who are PGT Guardian of Estate clients. Registered Disability Savings Plans (RDSPs) and Registered Educational Savings Plans (RESPs) are an example. The PGT has been establishing RDSPs on behalf of eligible clients. However, this activity has resulted in significant administrative pressures and unfunded related costs for the PGT. During 2010/11, the PGT worked with partners such as the RDSP Resource Centre, Planned Lifetime Advocacy Network (PLAN), MCFD, MSD and CLBC in conducting a pilot research project on RDSPs entitled *Registered Disability Savings Plan: Implications for Children-in-care*.

The PGT generally holds trust funds until the youth achieves the legal age of majority at 19 years. As Guardian of Person, MCFD and DAAs are primarily responsible for financially supporting children under continuing custody orders. As a result, PGT disbursements focus more on special opportunities than on day to day expenses.

Legal Services

The PGT participates in a wide range of civil legal activities in carrying out its duties as Guardian of Estate. During 2010/11, 248 legal matters were concluded.

Table 4 demonstrates the number of Guardian of Estate legal matters concluded over the past four years. Researching and pursuing legal issues may require extensive time and 42% of the total 1,593 files opened from April 1, 2007 to March 31, 2011, remained pending as of March 31, 2011.

Table 4: Number of Guardian of Estate legal matters, Apr 1, 2007 - Mar 31, 2011

Legal files by year	2007/08	2008/09	2009/10	2010/11	Total	%
Files concluded in year	187	243	245	248	923	58%
Files opened in year, still pending at March 31st 2011	99	127	234	210	670	42%
Total	286	370	479	458	1593	
Percentage	18%	23%	30%	29%		

Note: Legal Files are placed in the year in which they are concluded, except for files that were still pending prior to March 31, 2011, which are shown in the year opened.

A major challenge for the legal staff is the need to review extensive MCFD or DAA records relating to the child in addition to the range of records that must normally be gathered and reviewed in a personal injury case. A typical file record from MCFD or a DAA will have an average of 5,000 to 6,000 pages to review and these records must also be analysed to determine next steps in terms of pursuing a legal action on behalf of the child or youth.

The nature of legal activities undertaken by the PGT on behalf of its Guardian of Estate clients is extensive. Claims related to personal injury arising from sexual assault are the largest category, comprising 30% over the past three years. See Table 5 for a full listing of the categories of legal actions.

Class actions are an emerging area of PGT legal services, representing 6% of all legal matters from April 1, 2007 to March 31, 2011 as displayed in Table 5. The PGT has pursued funds on behalf of its Guardian of Estate clients in class action proceedings such as the Hepatitis C Class Action Settlement.

Table 5: Types of Guardian of Estate legal matters, Apr 1, 2007 to Mar 31, 2011

Legal file categories by year	2007/08	2008/09	2009/10	2010/11	Total	%
Beneficiary designation/pension/RRSP/insurance	11	5	6	1	23	1%
Class action	-	-	93	1	94	6%
Contracts - entertainment	1	-	-	1	2	<1%
Creditor/debtor	-	1	2	8	11	1%
Family	1	-	-	-	1	<1%
Family Compensation Act	17	26	33	24	100	6%
Guardianship minors	24	11	4	17	56	4%
Miscellaneous	10	8	27	24	69	4%
Personal injury - dog bite	3	-	6	4	13	1%
Personal injury - medical malpractice	-	1	2	3	6	<1%
Personal injury - motor vehicle accident	33	71	69	83	256	16%
Personal injury - other	90	107	67	99	363	23%
Personal injury - sexual assault	78	114	141	149	482	30%
Personal property matters	-	1	-	-	1	<1%
Real property	3	-	-	1	4	<1%
Review of accounts	-	-	2	-	2	<1%
Trust - breach	-	-	-	2	2	<1%
Trust - monitor/investigate	1	-	2	2	5	<1%
Trust - other	1	1	4	16	22	1%
Workers Compensation Board claims	-	2	-	3	5	<1%
Wills & estates - other	13	22	14	19	68	4%
Wills & estates - Wills Variation Act	-	-	7	1	8	1%
Total	286	370	479	458	1,593	100%

There are a broad range of potential outcomes to legal actions. See Table 6 for outcomes over the past four years.

Table 6: Outcomes of Guardian of Estate legal matters, Apr 1, 2007 - Mar 31, 2011

Legal files by outcome	2007/08	2008/09	2009/10	2010/11	Total	%
Age of majority - legal information letter provided	89	124	140	132	485	53%
Child deceased before legal action concluded	-	2	1	-	3	<1%
Child defended in civil action	1	1	7	1	10	1%
Client assumed conduct of legal action at age 19	4	11	10	7	32	3%
Court award made	3	7	4	3	17	2%
Information transferred to adoptive parents	1	12	13	5	31	3%
Information transferred to new guardians (s. 54.1)	-	1	3	2	6	1%
Other (e.g., matter stayed, discontinued, dismissed etc.)	37	28	12	24	101	11%
PGT acting as Litigation Guardian/ Power of Attorney post 19 years old	3	3	6	2	14	2%
PGT not pursuing claim - no further action	27	27	28	52	134	15%
Settlement reached	22	27	21	20	90	10%
Total	187	243	245	248	923	

In some instances, the PGT pursues an action against other defendant(s) on behalf of the child or youth. In other instances the PGT represents the child or youth as a defendant in a civil action.

Over the past four years, the PGT has recovered more than \$4.4 million by way of judgments, settlements or other financial outcomes on behalf of its Guardian of Estate clients. See Table 7 for details.

Table 7: Amounts collected through Guardian of Estate legal actions, Apr 1, 2007 - Mar 31, 2011

Legal files with court award or settlement amounts	2007/08	2008/09	2009/10	2010/11	Total	%
\$0-5k	11	14	10	7	42	37%
Total value	\$23,091	\$42,688	\$24,386	\$15,049	\$105,215	2%
\$5-10k	5	7	2	2	16	14%
Total value	\$34,443	\$52,057	\$17,938	\$10,600	\$115,039	3%
\$10-20k	3	1	7	6	17	15%
Total value	\$39,352	\$15,947	\$90,629	\$94,368	\$240,298	6%
\$20-50k	4	6	4	4	18	16%
Total value	\$168,390	\$183,486	\$103,400	\$145,498	\$600,776	14%
\$50-100k	2	7	3	1	13	11%
Total value	\$119,744	\$530,968	\$248,972	\$83,500	\$983,185	23%
\$100k+	-	3	3	3	9	8%
Total value	-	\$701,043	\$1,229,872	\$390,000	\$2,320,916	53%
Total # of judgments, settlements or other financial outcomes	25	38	29	23	115	
Total value of judgments, settlements or other financial outcomes	\$385,022	\$1,526,192	\$1,715,199	\$739,016	\$4,365,430	

Termination of PGT Guardianship

PGT Guardian of Estate services continue until youth reach the age of 19 and are legally recognized as adults or until their continuing custody orders are terminated.

When young people in BC turn 19, they become responsible for their own affairs, including the financial and legal issues that were previously managed by the PGT. In preparation for these new responsibilities, the PGT provides youth approaching their 19th birthday with a summary of their financial affairs. This summary is provided to each youth's social worker and includes a report on the youth's assets and investments. It may also include a letter that provides legal information concerning legal and financial affairs, including information about any legal actions that are underway and potential claims that the youth may wish to pursue as an adult.

Where PGT staff believe that youth approaching 19 years may require ongoing support because of mental incapacity, the individual may be referred to PGT Services to Adults who works with the youth and community partners to determine what level of support the young person may require at age 19. Twenty three referrals were made between April 1, 2010 and March 31, 2011, and the PGT was appointed as Committee of Estate under the *Patients Property Act* for 12 former Guardian of Estate clients when they turned 19 years old.

The PGT authority as Guardian of Estate also ends when a continuing custody order is terminated. This happens when children who are the subject of the order are adopted, are returned to their parents or guardianship is transferred to a new guardian. The total number of children and youth served by the PGT as Guardian of Estate remains relatively constant as the number of individuals for whom authority is terminated is roughly similar to the number of new orders. Authority ends most frequently because the minors become adults.

The *Child, Family and Community Services Act* allows MCFD and DAAs to apply to the Provincial Court to terminate a continuing care order and transfer physical custody and guardianship, often to a relative of the child. Under the Act, PGT consent for the application to transfer guardianship is required before MCFD or the DAA can apply to the Provincial Court.

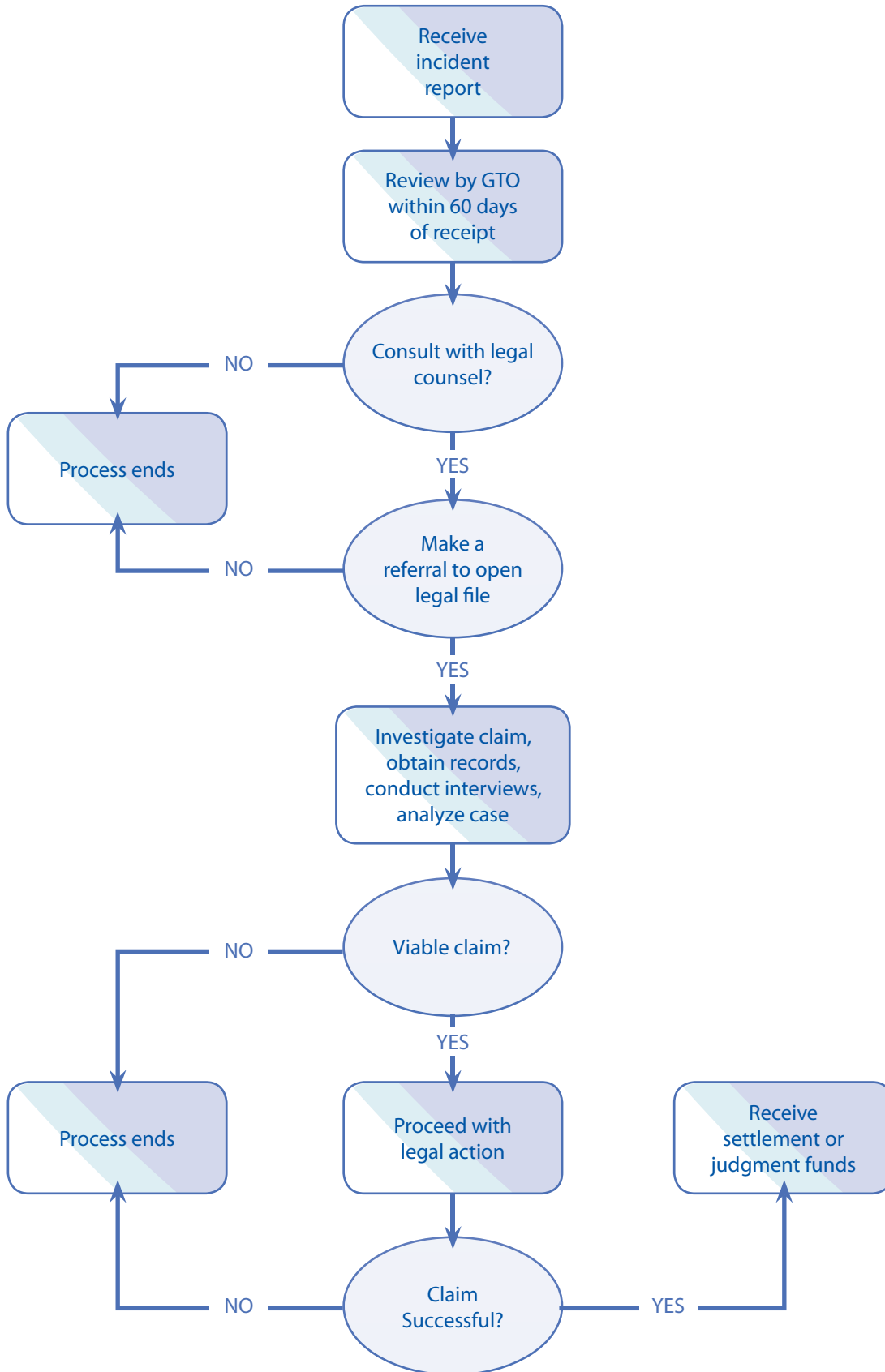
The PGT consented to 38 applications to transfer guardianship of 19 girls and 19 boys between April 1, 2010 and March 31, 2011. For 32 of the 38 applications, the children were from 13 families. Of the children involved in the transfers, 22 were Aboriginal children.

When the PGT is notified that a transfer of guardianship is being considered, staff work with the child's social worker to ensure that the PGT is able to advise prospective guardians of their duties as Guardian of Estate. The prospective guardians are required to acknowledge to the PGT that they understand and accept the related duties and responsibilities.

PART 3. Critical Incident Reports



Figure 1. PGT review of critical incident reports



PART 3. CRITICAL INCIDENT REPORTS

As Guardian of Estate, the PGT protects the financial and legal interests of the children and youth for whom it is coguardian with MCFD and DAAs. These services usually start after a continuing care order has been made for a child or youth.

The majority of incidents regarding children and youth are reported to the PGT by MCFD or DAAs through reports called “initial reportable circumstances”. The PGT refers to these reports as “critical incident reports” or CIRs. These CIRs report situations where the child may have been harmed or been at risk of harm.

Critical incidents can range from a child leaving a foster home without permission, to a motor vehicle accident involving the child, to alleged abuse or harm of the child. Any of these incidents may lead to the PGT making a legal claim on behalf of the child. Taking action in response to these reported incidents is one of the most important duties performed by the PGT. However, the PGT can only act when it learns that something has happened. Thus, the quality of reporting to the PGT is a key determinant of service quality.

The PGT has received initial reportable circumstances reports from MCFD on an automated basis since 2007. This current report summarizes data for the 2007/08 through 2010/11 fiscal years.

Many CIRs reference previous unreported incidents in the course of describing the current incident. In previous years, these past incidents were unreported. Beginning with this *PGT Child and Youth Guardianship Services 2010/2011 Report*, past incidents are included and described as well. Tables summarizing data from the current fiscal year rely on this expanded definition of incidents.

Tracking and reporting upon incident reports has raised significant policy and process considerations for the PGT when acting as Guardian of Estate. In response, the PGT has been developing policy and processes to be able to accurately capture the corresponding activities and services being provided to Guardian of Estate clients. As such, the reporting will continue to evolve over time.

PGT Review of and Response to Critical Incident Reports

The PGT process for review of and response to CIRs is illustrated in Figure 1. When the PGT receives a CIR, the first step is to ensure that the Guardianship and Trust Officer (GTO) has the information needed to review the report. The report is reviewed within 60 calendar days of receipt of all information. The PGT has a performance target that measures the timeliness of initial reviews and action taken by GTOs. Between April 1, 2010 and March 31, 2011, the PGT met the target by reviewing 99% of CIRs within 60 days.

For some reports, the GTO may determine that the circumstances require that the report be reviewed by legal counsel to determine if legal action should be pursued. However, for some reports, a review does not result in a legal consultation because there is clearly no legal matter to pursue. For example, a report of a youth who went missing overnight without any injury or harm would not generally result in a legal consultation. Unless it is obvious that there is no need for a legal consultation, all incident reports are reviewed with legal counsel to determine

if a referral to legal services is warranted. Where there is a legal consultation regarding a CIR, there are three possible outcomes:

- referral of the incident to legal services for further action;
- no legally actionable matter is identified; or
- a legal information letter to be provided to the youth on reaching the age of majority.

A referral to legal services leads to further investigation to determine if there is a viable claim. The decision to proceed is made by the PGT based on legal advice that the facts underlying a critical incident report give rise to a claim for damages on behalf of the child who is the subject of the report.

If it is not possible for the PGT to take legal action on potential claims while Guardian of Estate, a legal information letter may be provided to youth when they are about to turn 19. The PGT sends this letter to advise of outstanding legal issues that the youth may wish to pursue as an adult and the date on which the applicable limitation period will expire. These legal issues could include potential lawsuits that the PGT was unable to pursue because the risks in pursuing the claim outweighed the benefit at the time or because the alleged harmer did not have assets at the time to pay a possible judgment.

Pursuing legal action is usually a very lengthy process and claims may not be resolved for years. As the focus of this report is on CIRs received by the PGT between April 1, 2010 and March 31, 2011, many outcomes for these legal actions are not available yet and will be reported in the future.

Statistical Summary of Critical Incident Reports Received by the PGT

The remainder of this section of the report provides a statistical summary of critical incident reports received by the PGT from April 1, 2010 and March 31, 2011. Data provided for the previous three year period is available in appendices at the end of this document.

CIRs cover a wide range of alleged incidents described by MCFD and DAAs as initial reportable circumstances. The PGT reviews the MCFD/DAA reports upon receipt and classifies the reported incident types according to categories it has adapted from the World Health Organization *International Classification of Diseases*. PGT has adapted the classification of types of alleged harmers from the *International Classification of External Causes of Injuries*. For more information and definitions of these categories, see Appendix 2.

In some cases where there has been an injury, children and youth in care have been subjected to serious harm. While the presentation of the data in this report may appear clinical, the impact can be profound.

This summary describes the total number of reports, the types of alleged incidents reported, and the actions taken by the PGT in response to these reports. All data presented in this section and in the appendices is based on the information reported to the PGT by MCFD or DAAs, and occasionally by other sources.

Readers should exercise caution in further interpretation of the critical incident data in this report. It is drawn from critical incident reports as submitted to the PGT and has been categorized by the PGT as described in Appendix 2. No conclusions regarding the allegations contained in these critical incident reports should be drawn from their inclusion in this report.

Number of Children Involved in Critical Incident Reports

For the period April 1, 2010 through March 31, 2011, the PGT received 672 CIRs involving 487 children (see Table 8). As there were 6,505 children served by the PGT as Guardian of Estate during this period, the reports involved 7.5% of all children and youth receiving Guardian of Estate services. MCFD and DAAs were the source of almost all of the reports. Multiple CIRs were received for 45% of the children about whom a report was made.

Table 8: Critical incident reports for unique individuals, Apr 1, 2010 - Mar 31, 2011

No. of reports	No. of individuals	%	No. of reports	%
1 report	368	76%	368	55%
2 reports	75	15%	150	22%
3 reports	31	6%	93	14%
4 reports	7	1%	28	4%
5 reports	3	1%	15	2%
6 reports	3	1%	18	3%
Total	487		672	


















For the three year period, April 1, 2007 to March 31 2010, the PGT received 1,889 CIRs involving 1,146 children. While the majority of children involved (798 or 70%) were the subject of a single CIR, others were the subject of multiple CIRs, including three children who were the subject of 10 or more reports.

Critical Incident Report Types

Of the CIRs received between April 1, 2010 and March 31, 2011, 253 (38%) involved incidents that did not result in injury or harm to the children, for example, leaving a foster home without permission. Where there was no injury and thus no grounds for legal action, the reports did not result in further action by the PGT.

In the same 2010/11 period, there were 419 reports of incidents in which a child or youth experienced harm. The following table (Table 9) describes all 419 CIRs during this period in which the child allegedly experienced harm.

Table 9: Critical incident reports by incident type where child experienced harm, Apr 1 2010 - Mar 31, 2011

Death	3	1%	
Dog bite	6	1%	
Falls	17	4%	
Fire, flames, hot substances	3	1%	
Medical condition	6	1%	
Motor vehicle accident – child cyclist	6	1%	
Motor vehicle accident - child driver	6	1%	
Motor vehicle accident - child passenger	28	7%	
Motor vehicle accident – child pedestrian	11	3%	
Other type of injury or harm to child	59	14%	
Physical and sexual assault	15	4%	
Physical assault	119	28%	
Self inflicted injury	9	2%	
Sexual assault	107	26%	
Struck by an object	3	1%	
Submersion	1	<1%	
Suicide attempt	20	5%	
Total			419

Note 1: Injuries that are the result of intent to harm are recorded as physical assault, sexual assault, physical and sexual assault, suicide attempt, death, or self inflicted injury. Injuries that are accidental or non intentional are recorded in other categories.

Note 2: Death includes accidental, homicide, natural and suicide deaths.

Note 3: When multiple types of harm or injury resulted from a single incident, it is recorded as "Other type of injury or harm".

Note 4: See Appendix – Table A: Critical incident reports by incident type where the child experienced harm, Apr 1, 2007 – Mar 31, 2010, for more information.

Of the 419 incidents reported in 2010/11 in which a child allegedly experienced harm:

- Some form of assault accounted for 241 (58%) incidents.
- Motor vehicle accidents accounted for 51 (12%) incidents.
- Suicide attempts accounted for 20 (5%) incidents while other self inflicted injuries accounted for 9 (2%) incidents.

As described, the 2010/11 results cover a larger spectrum of reports than those reported in the previous three years.

The PGT assesses CIRs in which a child has allegedly been harmed to determine if legal action might result in compensation for the child.

The PGT received a total of 672 CIRs during 2010/11. Of these 672 CIRs:

- No harm occurred in 253 or 38% of the incidents;
- Harm occurred in 419 of the incidents;
- Of the incidents in which harm occurred, 100 involved incidents in which no person(s) were alleged to have harmed the child or youth, for example cycling accidents that involved no other person; and
- Of the incidents in which harm occurred, 319 involved an alleged “harmer”, that is a person who allegedly directly harmed a child, whether intentionally or by accident.

The following table (Table 10) reports on the 319 incidents involving an alleged harmer. Harmer does not refer to agencies that may have a legal responsibility to care for the child. See Appendix 2 for more information about categories of alleged harmers.

Table 10: Critical incident reports by person alleged to have harmed the child, Apr 1, 2010 - Mar 31, 2011*

Alleged Harmer	2010/11	Number of reports
Another child(ren) in care	11	
Boyfriend/girlfriend/spouse	10	
Foster parent	47	
Other friend(s)/acquaintances(s)	64	
Other relationship**	88	
Other relative(s)	15	
Parent(s)	41	
Person(s) in official or legal authority	6	
Relationship not known	25	
Stranger(s)	8	
Unrelated caregiver(s)	4	
Total	319	

* See Appendix Table B: Critical incident reports by person alleged to have harmed the child, Apr 1, 2007 – Mar 31, 2010, for more information.

** "Other relationship" category is used where multiple harmers may be involved.

Of the 319 incidents reported in 2010/11 in which there was a person who allegedly directly harmed a child, whether intentionally or by accident:

- Other friends or acquaintances, and boyfriends, girlfriends or spouses, were the alleged harmer in 74 (23%) incidents.
- Foster parents and unrelated caregivers were the alleged harmer in 51 (16%) incidents.
- The relationship was not known in an additional 25 (8%) incidents.
- Parents and other relatives were the alleged harmer in 56 (18%) incidents.
- Strangers were the alleged harmer in 8 (2.5%) incidents.

The nature of the alleged harmer varied with the type of incident. Foster parents and unrelated caregivers were the alleged harmer in 20% of the 2010/11 incidents involving physical and/or sexual assaults. Other friends and acquaintances were the alleged harmers in 24% of the 2010/11 incidents involving physical and/or sexual assaults. For additional data on alleged harmers by incident type, see Appendix Table C: *Alleged harmer by frequency of incident types, Apr 1, 2007 – Mar 31, 2010.*

Children and Youth Involved in Critical Incident Reports

Age

The incidence of CIRs related to each age group differs from the general age distribution for all children served as Guardian of Estate during this period (see Table 1). For example, while children aged 0 to 9 years comprised 29% of all guardianship clients, they were the subject of only 12% of the CIRs received during 2010/11.

Table 11 presents the incidence of reports arranged by age category at the time of the incident.

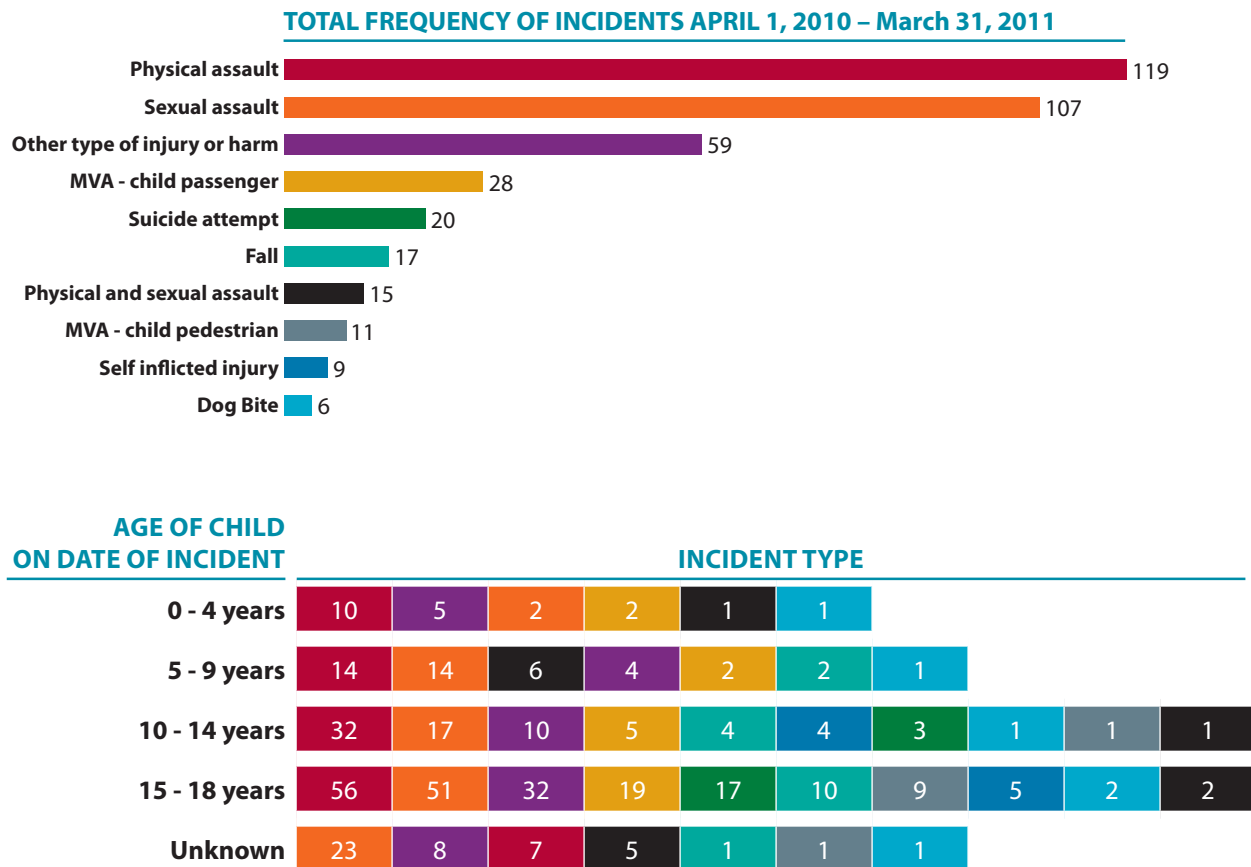
Table 11: *Critical incident reports by age category for unique individuals, Apr 1, 2010 - Mar 31, 2011*

Age*	2010/11	
	No.	%
0 - 4 years	13	3%
5 - 9 years	29	6%
10 - 14 years	100	21%
15 - 18 years	345	71%
Total	487	

*Age at time of incident

Physical assault was the primary reported incident among all age categories. Sexual assault was the second most reported incident for all age categories except the 0 - 4 years. Further details are provided in Table 12: *Frequency of incident types by age category on date of incident, Apr 1, 2010 – Mar 31, 2011.*

Table 12: Frequency of incident types by age category on date of incident, Apr 1, 2010 - Mar 31, 2011



Note 1: This table includes only the top categories. Colours are used to indicate the same categories wherever they appear in the table.

Note 2: See Appendix Table I: Frequency of incident types by age category on date of incident, Apr 1, 2007 – Mar 31, 2010.

Note 3: The incident date is unknown as the provider of the report did not supply the date of the incident.

The pattern of physical assault as the leading type of incident reports for all age categories and sexual assault as the second leading type of incident reports for most age categories was consistent over the three year period of April 1, 2007 to March 31, 2010.

The type of alleged harmer also varied according to the age of the child at the date of the incident. In 2010/11, foster parents and unrelated caregivers were the alleged harmer in 5 of 26 (19%) incidents involving children aged 0 - 4 years and 12 of 51 (24%) for those aged 5 - 9 years, dropping to 11 of 419 (3%) for those aged 15 - 18 years. Parents and other relatives were the alleged harmer in 16 of 51 (31%) of incidents for children aged 5 - 9. Strangers were the alleged harmer in 5 of 419 (1%) incidents involving children aged 15 - 18 years.

While data is still too limited to confirm trends, a review of three years of critical incident reports indicates that the category of alleged harmer appears to vary according to the age of the child or youth. For details, see Appendix *Table D: Frequency of categories of alleged harmer by age category of child, Apr 1, 2007 – Mar 31, 2010* for more information.

Gender

Children involved in the critical incident reports received in 2010/11 were generally evenly split by gender with 51% female and 49% male. However, there are differences by gender in terms of the type of incident reports. In 2010/11, girls were the victims of 78% of all alleged sexual assaults while boys were the victims of 59% of all alleged physical assaults. For earlier data, see Appendix *Table E: Critical incident types by gender of child, Apr 1, 2007 – Mar 31, 2010*.

In 2010/11, there were also differences in gender with respect to incident reports involving an alleged harmer. Boys were involved in 54% of incidents in which parents were the alleged harmer while girls were involved in 100% of the events in which boyfriends, girlfriends or spouses were the alleged harmer. For additional details, see Appendix *Table F: Alleged harmer by gender of child, Apr 1, 2007 – Mar 31, 2010*.

Aboriginal Identity

Of the 487 children who were the subject of a CIR in 2010/11, 292 (60%) were identified as Aboriginal. The reported incident varied somewhat according to Aboriginal identity. Aboriginal children were the victims of 60% of the incidents involving physical and/or sexual assault and 65% of suicide attempts. However, the majority of the children were also Aboriginal (63%) for incidents in which there was no injury or harm. For earlier data, see Appendix *Table G: Frequency of incident type by Aboriginal identity of child, Apr 1, 2007 – Mar 31, 2010*.

Regional Distribution

The largest number of CIRs came from Fraser Region (28%), closely reflecting its standing as the MCFD region with the most children in continuing care.

Table 13: MCFD region reporting critical incidents, Apr 1, 2010 - Mar 31, 2011

MCFD Region	No. of reports	Percent of reports
Fraser	186	28%
Vancouver Coastal	154	23%
North	115	17%
Interior	132	20%
Vancouver Island	83	12%
Unknown region	2	<1%
Total	672	

Outcomes from PGT Review of Critical Incident Reports

The PGT reviewed 672 CIRs between April 1, 2010 and March 31, 2011.

There were 604 (90%) CIRs for which there was an outcome from an initial staff review during the year. Table 14 shows the outcome of GTO reviews for these 604 reports. PGT action on the CIR ends if the outcome at the GTO review stage is that there will be no legal consultation.

Table 14: Outcome of GTO review of critical incident reports for reviews occurring, Apr 1, 2010 - Mar 31, 2011

Outcome of initial review	No. of reports	%
No legal consultation - no actionable matter	307	46%
Legal consultation - referral to legal services	102	15%
Legal consultation - no actionable matter	173	26%
Legal consultation - legal information letter	22	3%
Pending	68	10%
Total	672	

Note 1: See Appendix Table H: Outcome of GTO review by incident type, Apr 1, 2007 – Mar 31, 2010.

Note 2: As of Sept. 2011 of the 672 total CIRs reviewed in 2010/11, 68 had no GTO outcomes and will be reported on in future.

GTOs established that 307 (46%) reports of incidents were not actionable and did not request legal consultation because there was clearly no legal matter to pursue. As an example, a report of a youth who went missing overnight that did not involve injury or harm would not generally result in a legal consultation.

PART 4. **The Way Forward**



PART 4. THE WAY FORWARD



The experience of delivering Guardianship of Estate Services to children in continuing care, has led the PGT to identify a range of issues which challenge the effective provision of Guardianship of Estate protections to children in British Columbia. These issues include the quality of information reporting to the PGT, the availability of Guardianship of Estate protections to all children receiving government services and resourcing of public guardianship services. These concerns have been the subject of the PGT's recommendations for improvement in past reports. Although positive gains have been made with respect to some issues, others remain unaddressed.

Quality of Reporting

The PGT relies on a range of reporting from MCFD and DAAs to be able to carry out its duties. Reporting is governed by a protocol agreement between the PGT, MCFD and DAAs and is elaborated upon in a number of MCFD Practice Standards and other legal instruments. Essential reporting includes notification of any death, critical injury, serious incident or possible claim involving a child in care for whom the PGT is Guardian of Estate.

In reporting to the PGT, MCFD is guided by the provisions of MCFD Practice Standard 25 which defines the nature and scope of "initial reportable circumstances," also known as critical incidents. In order to carry out its role as Guardian of Estate, the PGT requires notification of all incidents concerning a child in care, including those which may not meet the definition of initial reportable circumstances or critical injury as described in Practice Standard 25. In 2010/11, the PGT and MCFD collaborated to develop a new form for the reporting of incidents designed to capture those which do not meet Practice Standard 25. The new form is expected to broaden the scope of incident reporting by MCFD to the PGT to allow the PGT to better protect the legal and financial interests of children in continuing care. DAAs with guardianship authority are required to submit the same range of reports as MCFD.

Also in 2010/11, the PGT, MCFD and RCY worked together to develop a clear and consistent definition of terms and common reporting criteria concerning critical incidents to improve reporting standards. The PGT anticipates that MCFD will implement the new definitions and reporting criteria on a trial basis in 2011/12.

- *Action: The PGT will continue to work with MCFD and RCY to improve the definition of injury and harm with the intent of encouraging improved reporting for incidents involving children in continuing care.*

External Partnerships

In its last report, the PGT commented on the challenge it faced in accommodating MCFD's ongoing initiative to transfer responsibilities for Guardianship of Person of Aboriginal children in care from MCFD to 19 DAAs across the province. While the PGT recognizes the importance of this initiative to supporting the well being of Aboriginal children in care, the transfer of Guardianship of Person to the DAAs has created significant unfunded pressures for the PGT as a comparatively small organization to develop and foster an independent operational relationship with each delegated agency, in addition to its relationship with MCFD.

In the past year, the PGT and MCFD through cooperative effort, have made progress in minimizing the challenges posed to the PGT of serving as coguardian with multiple agencies. The PGT and MCFD have established a protocol to involve the PGT in the early stages of the delegation or re-delegation process. Through this protocol, the PGT will be afforded an opportunity at the outset of the delegation process to attempt to forge an effective coguardianship relationship with the DAAs through which the interests of Aboriginal children in care will be better served.

Unfunded cost pressures arising from the need for the PGT to act as coguardian with multiple agencies continues to be an issue requiring future mitigation. In addition, the PGT must act to further develop the cultural competency of its staff to facilitate collaborative working relationships with the DAAs and to better realize the many benefits of placing Aboriginal children within their communities.

- *Action: Until funding pressures are resolved, the PGT will continue to strive to build relationships with DAAs, improve cultural competency of staff and use technology wherever appropriate to improve communication with its coguardians.*

Law Reform

In previous Child and Youth Guardianship Services Reports, the PGT commented on the fact that children receiving provincial services under alternate care arrangements do not have an effective Guardian of Estate to protect their legal and financial interests. By way of contrast, children who are taken into provincial care as the result of a continuing custody order of the court, are provided with the protective services of MCFD as Guardian of Person and the PGT as Guardian of Estate as the result of statutory provisions. There is no comparable statutory authority to provide guardianship protections to children supported by MCFD and the DAAs through alternative care arrangements such as Extended Family Agreements, Special Needs Agreements, Voluntary Care Agreements and Youth Agreements.

MCFD has a strategy focused on increasing the number of children placed through alternative care arrangements and at December 31, 2010, these alternatives involved approximately 42% of the children receiving ongoing provincial services. For most of these children and youth, the role of Guardian of Estate and responsibility for protecting a child's financial and legal affairs, continues to rest with their parents even though the parents may no longer have custody or be capable of acting as a guardian. Neither the PGT nor others have legal authority to provide these protective services.

While the system of alternative arrangements may be more flexible and responsive to the varied needs of today's children and youth, the PGT is concerned that the legal and financial needs of some children are not being met in practice because their legal guardians are not actively involved in their lives.

In the past year, the PGT met with representatives from MCFD and RCY to discuss service gaps related to alternative care arrangements. Progress has been slow and the PGT remains very concerned that children and youth continue to be in a situation where they effectively do not have an active Guardian of Estate.

- *Action: The PGT will continue to call on government to address the lack of Guardian of Estate services available to children and youth in alternative care arrangements.*

The PGT has previously called for law reform to modernize the legal role and duties of guardians of children. The new but still unproclaimed *Family Law Act, 2011* contains provisions which will clarify parental roles and duties and provide meaningful guidance to private guardians when it comes into force.

Unfortunately, the existing statutory definition of public Guardianship of Estate which defines guardianship by reference to the laws of England in 1660, was not addressed in this law reform initiative and remains largely unhelpful in providing direction about the nature and scope of the role of the public Guardian of Estate. A modern definition of public guardianship is clearly required.

- *Action: The PGT will urge government to reform the law to provide for a modern definition of public guardianship.*

Providing financial and legal advice to support the transition of youth in care to adulthood is part of the Guardian of Estate responsibility. The PGT is actively involved both individually and jointly with other service partners in a number of activities to increase financial literacy of the children and youth for whom it is Guardian of Estate.

Building Financial Literacy for Children and Youth

The responsibilities of a Guardian of Estate evolve with social change. Until recently, financial literacy was not considered an important part of the education of young people. Today, however, there is growing awareness of the benefits of starting financial planning at a younger age. Financial literacy is particularly important for youth in continuing care as they may have no one they can call on for advice once they turn 19. Some youth in care may own substantial assets by the time they reach adulthood and independence.

Providing financial and legal advice to support the transition of youth in care to adulthood is part of the Guardian of Estate responsibility. The PGT is actively involved both individually and jointly with other service partners in a number of activities to increase financial literacy of the children and youth for whom it is Guardian of Estate. *First Nations Financial Fitness*, a financial literacy handbook for Aboriginal youth, is the first component to a jointly developed initiative focused on Aboriginal youth that the PGT has undertaken with the First Nations Technology Council, Aboriginal Financial Officers Association of BC, Vancouver Aboriginal Child and Family Services Society, Urban Native Youth Association, Aboriginal Affairs and Northern Development Canada, VanCity Savings Credit Union and MCFD.

The PGT is playing a key role in distributing *Dollars and Sense*, a handbook providing basic information on managing finances directed at youth nearing the age of majority. The PGT also made a submission to the Federal Task Force on Financial Literacy regarding needs of children at risk.

Connected to the issue of improving the financial literacy of children and youth in continuing care is the emerging and related issue of the management of RDSPs and RESPs. The PGT pursues financial benefits such as RDSPs for Guardian of Estate clients as they become eligible. However as youth become adults, the Public Guardian and Trustee no longer has legal authority to act as account holders for the RDSPs of their former clients. In situations where the RDSP cannot be transferred to the youth or young adult due to mental capacity issues and there is no effective support network in place for that person, the PGT has remained involved. This work creates an unfunded pressure which cannot be sustained in the long term.

Registered Educational Savings Plans (RESPs) are another federal program that would be of benefit to many children in continuing care by potentially providing access to federal funds to offset the costs of post secondary education. However, the PGT has been unable to establish RESPs for its Guardian of Estate clients due to the lack of resources.

- *Action: The PGT will continue to work with external partners to develop and implement tools and programs to build financial literacy amongst children and youth. However, the capacity of the PGT to continue establishing and maintaining RDSPs and RESPs is dependent on the PGT receiving appropriate resources.*

SUMMARY OF ACTIONS

- 1. The PGT will continue to work with MCFD and RCY to improve the definition of injury and harm with the intent of encouraging improved reporting for incidents involving children in continuing care.*
- 2. Until funding pressures are resolved, the PGT will continue to strive to build relationships with DAAs, improve cultural competency of staff and use technology wherever appropriate to improve communication with its coguardians.*
- 3. The PGT will continue to call on government to address the lack of Guardian of Estate services available to children and youth in alternative care arrangements.*
- 4. The PGT will urge government to reform the law to provide for a modern definition of public guardianship.*
- 5. The PGT will continue to work with external partners to develop and implement tools and programs to build financial literacy amongst children and youth. However, the capacity of the PGT to continue establishing and maintaining RDSPs and RESPs is dependent on the PGT receiving appropriate resources.*

Appendices and Data Tables



APPENDIX I.

Glossary of Terms and Acronyms



Acronyms

CIR	Critical Incident Report
CLBC	Community Living BC
CPP	Canada Pension Plan
CVAP	Crime Victim Assistance Program
CYS	PGT Child and Youth Services
DAA	Delegated Aboriginal Child and Family Service Agency
GTO	Guardianship and Trust Officer
MCFD	Ministry of Children and Family Development
MSD	Ministry of Social Development
PGT	Public Guardian and Trustee of British Columbia
RCY	Representative for Children and Youth

Terms

Age of Majority – Age of majority, in BC when a youth is considered an adult is 19.

Alternative Care – Methods of providing provincial services other than by taking children and youth into continuing care, e.g., Youth agreements, Voluntary Care Agreement, Extended Family Agreements.

Continuing Care - In this report, describes the status of children for whom a continuing custody order has been granted.

Continuing Custody Order – A court order granted by a Provincial Court Judge confirms that a child or youth is permanently removed from their family home and the guardianship of their parent(s) or other adult(s). When this happens, MCFD or DAAs become the child’s Guardian of Person and the Public Guardian and Trustee becomes their Guardian of Estate.

CPP Children’s Benefit – A monthly payment by CPP to children of a parent who has died and was a contributor to the CPP.

CPP Disabled Contributor’s Child’s Benefit – A monthly payment by CPP to children of a parent who is unable to work and is receiving a disability pension.

Critical Incident Report - A report, usually from MCFD or a DAA, that advises of a situation where a child may have been harmed or at risk of harm. Also known as “initial reportable circumstances report”.

Extended Family Agreement – An agreement between MCFD or a DAA and a family member or other person that allows individuals to care for a child or youth who is not able to live with their natural parents and the parent has given the child into the care of the other person. MCFD may also provide financial support to that person.

Legal Information Letter – A letter sent by the PGT to a youth about to turn 19 to advise them of any outstanding legal issues that the youth may wish to pursue as an adult and the date on which the applicable limitation period expires.

Guardian of Estate – Role under which an individual or the PGT has a fiduciary duty to protect the legal and financial interests of a minor child or youth.

Trustee – A person or organization with a duty to hold property (money, land, investments) on behalf of another person and to manage it for that person's benefit.

Youth Agreement – A type of agreement under which MCFD agrees to provide financial support directly to a child or youth who cannot live with their family and there is no other family member or person able to care for the youth.

APPENDIX 2. PGT Classification of Critical Incident Reports



A. Incident Types

The PGT reviews critical incident reports from MCFD and DAAs upon receipt and categorizes the reported incident types according to classifications adapted from the extensive World Health Organization *International Classification of Diseases*. For more information see the complete classification system at www.who.int/classification/icd/en

- Only the categories for which there were reported incidents during this period appear in this report.
- When multiple types of harm or injury resulted from a single incident, it is recorded as “Other type of injury or harm”.

Cutting/piercing - Injury caused by cutting or piercing instrument or object. Excludes assault with a sharp object and self inflicted injury with a sharp object.

Death - The reported incident was that the child’s death was accidental, homicide, natural death, or suicide.

Dog bite - Injuries resulting from a dog bite.

Drowning/submersion - Accidental drowning or submersion involving watercraft, fall or activity in water resulting in resuscitation/medical attention excluding intent to self harm.

Fall - Falls due to accidental pushing or collision with other person, or diving or jumping into water.

Fire/flames/hot substances - Injuries caused by fire and flames; hot appliances, objects or liquids; steam; acid burns.

Medical condition - Illnesses or complications arising from surgery, medical care or medical treatment including hospitalizations due to medical illness.

MVA – child cyclist - Child was riding on a pedal cycle and involved in a collision or non collision injury associated with a motor vehicle.

MVA - child driver - Motor vehicle accident where the child was the operator of the motor vehicle excluding motorized bicycle.

MVA - child passenger - Motor vehicle accident where the child was a passenger in the motor vehicle.

MVA – child pedestrian - Child was a pedestrian injured in any collision or non collision traffic incident involving a motor vehicle.

Non MV cycle accident - Child was injured in a non motor vehicle incident involving a pedal cycle including falls from bicycle.

Other type of injury or harm to child - The following are examples of incidents in this category: Environmental; Poisonings (Accidental); Foreign Body; Machinery in Operation; Overexertion; Firearms; Other and unspecified environmental exposures and unspecified accidental causes.

Physical and sexual assault - An incident where both physical and sexual assault are believed to have occurred.

Physical assault - Injuries inflicted by another person with intent to injure or kill, by any means. Includes corporal punishment, assault that does not result in an injury, and injuries inflicted by the police or other law enforcement agents on duty.

Self inflicted injury - All intentionally self inflicted injuries except those resulting from suicide attempts or suicide.

Sexual assault - Sexual assault or abuse, including rape, sexual interference, sexual touching and invitation to sexual touching, sexual exploitation or similar actions.

Struck by object - Child was struck by falling object, striking against or struck by persons or objects, or caught unintentionally between objects excluding motor vehicle.

Suffocation - Inhalation and ingestion of food or objects causing obstruction of respiratory passage, or suffocation, unintentional mechanical suffocation, and smothering or choking.

Suicide attempts - Suicide attempts where child survived.

B. Alleged Harmers

This category identifies the relationship to the child of the person alleged to have harmed the child (intentionally or by accident). This category does not include agencies that may have a legal responsibility to care for the child (e.g., MCFD or DAA). It was adapted from the extensive *International Classification of External Causes of Injuries*. For more information, see the complete classification at www.rivm.nl/who-fic/ICECI/ICECI_1-2_2004July.pdf

This category of relationships includes:

- Parent(s)
- Other relative(s)
- Foster parent(s)/unrelated caregiver(s) [includes child care provider(s)]
- Another child(ren) in care
- Boyfriend/girlfriend/spouse [includes intimate partner(s)]
- Other friend(s)/acquaintance(s)
- Person(s) in official or legal authority [includes teachers, church ministers, sports coaches, police, guards, etc.]
- Stranger(s)
- Other relationship [includes any other stated relationship not covered above]
- Relationship not known
- Not applicable (no alleged harmer)

Note:

If the child has harmed themselves or there is no other person alleged to have harmed the child, it is recorded as “Not applicable (no alleged harmer)”.

Incidents where there could be more than one alleged harmer in an incident are currently recorded as “Other relationship”.

APPENDIX 3. Data Tables



Appendix Table A: Critical incident reports by incident type where child experienced harm, Apr 1, 2007 - Mar 31, 2010

Incident type	Years			Total
	2007/08	2008/09	2009/10	
Physical assault	93	113	94	300
Sexual assault	62	53	51	166
Motor vehicle accident - child passenger	24	37	46	107
Other type of injury or harm	35	30	39	104
Suicide attempt	29	36	21	86
Fall	22	23	7	52
Medical condition	9	19	19	47
Self inflicted injury	8	17	17	42
Motor vehicle accident - child pedestrian	15	12	5	32
Physical and sexual assault	8	11	8	27
Motor vehicle accident - child driver	9	5	4	18
Death	4	5	6	15
Dog bite	2	2	7	11
Struck by object	6	4	1	11
Motor vehicle accident - child cyclist	-	3	5	8
Non motor vehicle accident - cycle accident	-	4	2	6
Fire, flames, hot substances	-	2	3	5
Cutting/ piercing	3	1	-	4
Suffocation	1	-	-	1
Submersion	-	1	-	1
Total	330	378	335	1043

Number of reports

Note 1: Injuries that are the result of intent to harm are recorded as physical assault, sexual assault, physical and sexual assault, suicide attempt, death, or self inflicted injury. Injuries that are accidental or non intentional are recorded in other categories.

Note 2: Death includes accidental, homicide, natural and suicide deaths.

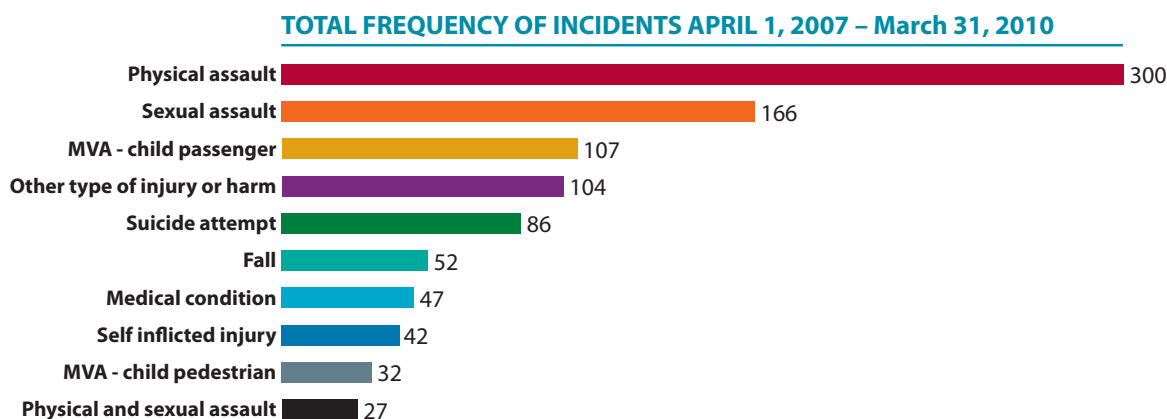
Note 3: When multiple types of harm or injury resulted from a single incident, it is recorded as "Other type of injury or harm".

Appendix Table B: Critical Incident Reports by person alleged to have harmed the child, Apr 1, 2007 - Mar 31, 2010

Alleged Harmer	Years			3 yr total	Number of reports
	2007/08	2008/09	2009/10		
Other relationship*	38	42	63	143	
Other friend(s)/acquaintance(s)	40	54	46	140	
Relationship not known	43	34	43	120	
Foster parent	23	51	34	108	
Boyfriend/girlfriend/spouse	14	12	19	45	
Parent(s)	17	11	12	40	
Other relative(s)	9	7	9	25	
Stranger(s)	9	12	4	25	
Another child(ren) in care	12	6	4	22	
Unrelated caregiver(s)	4	4	5	13	
Person(s) in official or legal authority	5	5	3	13	
Total	214	238	242	694	

* "Other relationship" category is used where multiple harmers may be involved.

Appendix Table C: Alleged harmer by frequency of incident types, April 1, 2007 - Mar 31, 2010

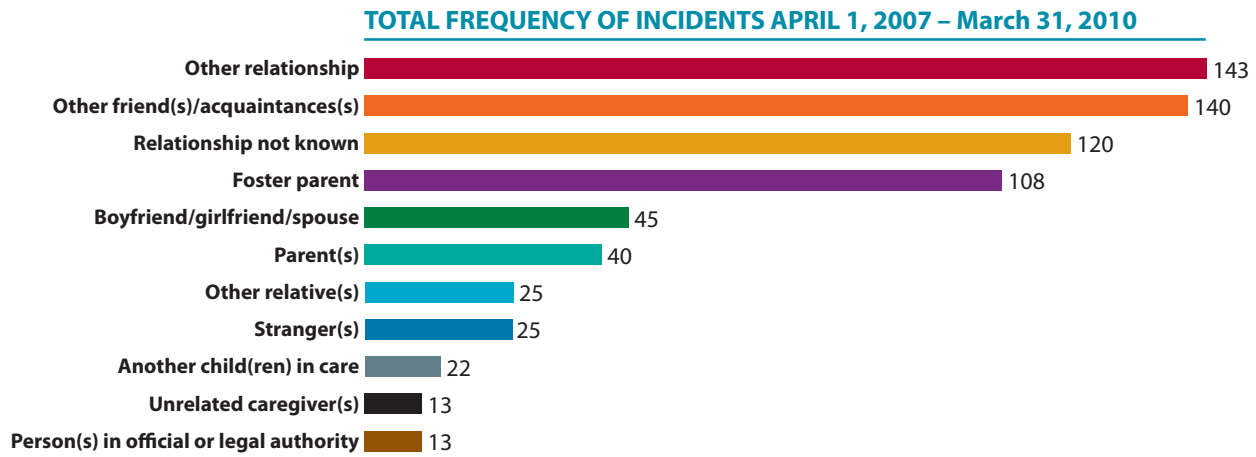


ALLEGED HARMER	INCIDENT TYPE					
Unrelated caregiver(s)	8	4	1			
Stranger(s)	10	10	2	1	1	
Relationship not known	40	33	27	6	3	3
Person(s) in official or legal authority	6	3	2			
Parent(s)	20	10	3	5	1	
Other relative(s)	13	10	2			
Other relationship	104	11	10	8	1	1
Other friend(s)/acquaintance(s)	73	50	10	4	1	
Not applicable (no alleged harmer)	86	69	51	46	42	
Foster parent	75	23	8	1		
Boyfriend/girlfriend/spouse	36	4	2	1	1	
Another child(ren) in care	11	9	1			

Note 1: This table includes only the top categories. Colours are used to indicate the same categories wherever they appear in this table.

Note 2: "Other relationship" category is used where multiple harmers may be involved.

Appendix Table D: Frequency of categories of alleged harmers by age category of child, Apr 1, 2007 – Mar 31, 2010



AGE OF CHILD ON DATE OF INCIDENT	CATEGORY										
	Other relationship	Other friend(s)/acquaintances(s)	Relationship not known	Foster parent	Boyfriend/girlfriend/spouse	Parent(s)	Other relative(s)	Stranger(s)	Another child(ren) in care	Unrelated caregiver(s)	Person(s) in official or legal authority
0 - 4 years	11	10	5	1	1	1					
5 - 9 years	34	12	6	4	2	2	1	1			
10 -14 years	39	38	33	26	12	9	7	5	3	2	2
15 - 18 years	105	91	82	43	24	20	20	13	11	9	8

Note 1: This table includes only the top categories. Colours are used to indicate the same categories wherever they appear in this table.

Note 2: "Other relationship" category is used where multiple harmers may be involved.

Appendix Table E: Critical incident types by gender of child, Apr 1, 2007 - Mar 31, 2010

Incident Type	Gender			
	Female		Male	
Cutting/piercing	-	-	4	100%
Death	9	60%	6	40%
Dog bite	7	64%	4	36%
Fall	22	42%	30	58%
Fire, flames, hot substances	1	20%	4	80%
Medical condition	23	49%	24	51%
Motor vehicle accident - child cyclist	1	13%	7	88%
Motor vehicle accident - child driver	7	39%	11	61%
Motor vehicle accident - child passenger	63	59%	44	41%
Motor vehicle accident - child pedestrian	16	50%	16	50%
No injury or harm	369	44%	477	56%
Non motor vehicle cycle accident	1	17%	5	83%
Other type of injury or harm	57	55%	47	45%
Physical and sexual assault	25	93%	2	7%
Physical assault	125	42%	175	58%
Self inflicted injury	21	50%	21	50%
Sexual assault	146	88%	20	12%
Struck by an object	3	27%	8	73%
Submersion	1	100%	-	-
Suffocation	-	-	1	100%
Suicide attempt	59	69%	26	31%
Total	956		932	

Note 1: Injuries that are the result of intent to harm are recorded as Physical assault, Sexual assault, Suicide attempt, Physical and sexual assault, Death or Self inflicted injury. Injuries that are accidental or not intentional are recorded in another category.

Note 2: When multiple types of harm or injury resulted from a single incident, it is recorded as "Other type of injury or harm".

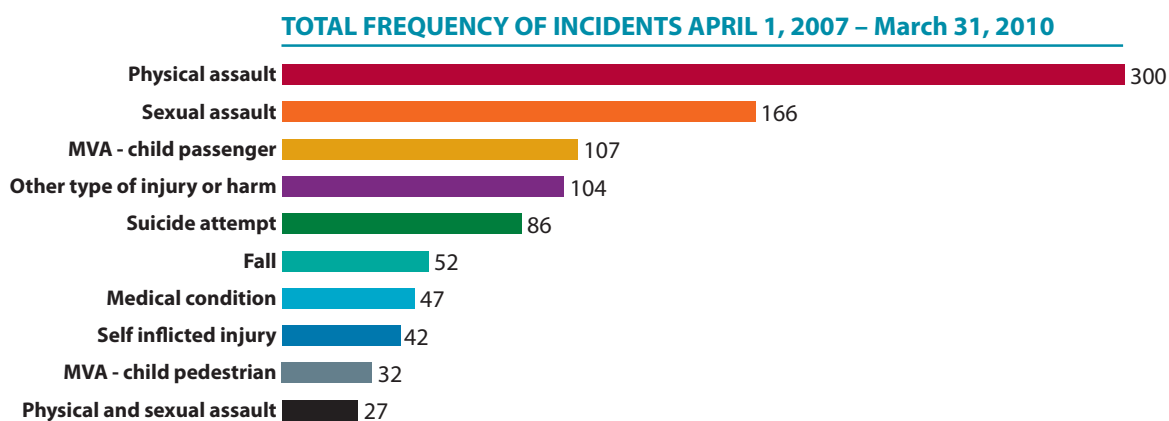
Note 3: Death includes accidental, homicide, natural and suicide deaths.

Appendix Table F: Alleged harmer by gender of child, Apr 1, 2007 - Mar 31, 2010

Alleged harmer	Gender of child			
	Female		Male	
Parent(s)	25	63%	15	37%
Other relative(s)	17	68%	8	32%
Foster parent(s)	53	49%	55	51%
Another child(ren) in care	5	23%	17	77%
Unrelated caregiver(s)	5	38%	8	62%
Boyfriend/girlfriend spouse	43	96%	2	4%
Other friend(s)/acquaintance(s)	84	60%	56	40%
Other relationship*	84	59%	59	41%
Person(s) in official or legal authority	3	23%	10	77%
Relationship not known	70	58%	50	42%
Stranger(s)	16	64%	9	36%
Not applicable (no alleged harmer)	551	46%	644	54%
Total	956		933	

*"Other relationship" category is used where multiple harmers may be involved.

Appendix Table G: Frequency of incident types by Aboriginal identity of child, Apr 1, 2007 - Mar 31, 2010



IDENTITY	INCIDENT TYPE									
	Physical assault	Sexual assault	MVA - child passenger	Other type of injury or harm	Suicide attempt	Fall	Medical condition	Self inflicted injury	MVA - child pedestrian	Physical and sexual assault
Aboriginal	199	98	73	55	49	33	27	27	16	13
Not Aboriginal	101	68	58	31	31	20	19	19	15	11

Note: This table includes only the top categories. Colours are used to indicate the same categories wherever they appear in this table.

Appendix Table H: Outcome of GTO review by incident type, Apr 1, 2007 - Mar 31, 2010

Incident Type	Outcome of GTO review					Total
	Legal consultation - referral to legal services	Legal consultation - legal information letter	Legal consultaion- no actionable matter	No legal consultation - no actionable matter	GTO outcome pending ³	
No injury or harm	-	-	48	796	2	846
Physical assault	59	48	141	46	6	300
Sexual assault	74	33	45	12	2	166
Motor vehicle accident - child passenger	77	10	16	4	-	107
Other type of injury or harm	14	2	24	62	2	104
Suicide attempt	-	-	5	81	-	86
Fall	9	2	23	18	-	52
Medical condition	3	-	4	40	-	47
Self inflicted injury	-	-	2	40	-	42
Motor vehicle accident - child pedestrian	20	4	5	3	-	32
Physical and sexual assault	9	6	9	3	-	27
Motor vehicle accident - child driver	7	1	9	1	-	18
Struck by an object	1	1	5	4	-	11
Dog bite	7	1	2	1	-	11
Motor vehicle accident - child cyclist	8	-	-	-	-	8
Death	-	-	3	12	-	15
Non motor vehicle cycle accident	-	-	4	2	-	6
Fire, flames, hot substances	2	-	1	2	-	5
Cutting/piercing	1	-	3	-	-	4
Suffocation	-	-	1	-	-	1
Submersion	-	-	-	1	-	1
Total	291	108	350	1128	12	1889

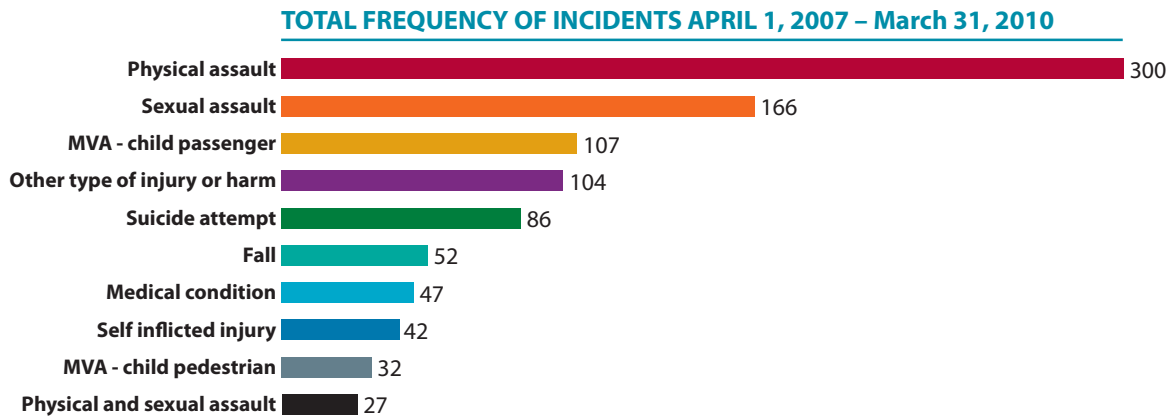
Note 1: Injuries that are the result of intent to harm are recorded as Physical assault, Sexual assault, Suicide attempt, Physical and sexual assault, Death or Self inflicted injury. Injuries that are accidental or not intentional are recorded in another category.

Note 2: When multiple types of harm or injury resulted from a single incident, it is recorded as "Other type of injury or harm".

Note 3: As of May, 2011.

Note 4: Death includes accidental, homicide, natural and suicide deaths.

Appendix Table I: Frequency of incident types by age category on date of incident, Apr 1, 2007 - Mar 31, 2010



AGE OF CHILD ON DATE OF INCIDENT	INCIDENT TYPE									
0 - 4 years	13	7	7	3	3	1	1			
5 - 9 years	33	11	11	8	7	3	1	1		
10 - 14 years	67	51	28	26	25	16	11	10	10	3
15 - 18 years	187	100	70	68	61	30	24	23	22	20
Unknown	1									

Note: this table includes only the top categories. Colours are used to indicate the same categories wherever they appear in the table.

Important note: Readers should exercise caution in further interpretation of the data in this report. It is drawn from CIRs as submitted to the PGT and has been categorized by the PGT as described in Appendix 2. No conclusions regarding the allegations contained in these CIRs should be drawn from their inclusion herein.

The PGT respects and carefully protects client confidentiality. Photographs are representative of children and youth of various ages and are not photographs of actual children served by the PGT as Guardian of Estate.

Additional copies of the *Child and Youth Guardianship Services 2010/2011 Report* may be downloaded from the PGT website (www.trustee.bc.ca).



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