

First Annual Report

of the

Worker Advocate Program

for the 2000 Calendar Year

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Government of the Yukon
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In this report:

Message from the Senior Worker Advocate

Worker Advocate Office Staff Profiles

What is a Worker Advocate and what does he or she do?

How does the Worker Advocate determine who to help?

Hearing and Appeal Process Overview

2000: The Year in Review

Looking Ahead

2000 Financial Notes

Message from the Senior Worker Advocate

It is my pleasure to submit this Annual Report for the year 2000 to the Minister of Justice Pamela J. Buckway.

The Worker Advocate Office was established in 1997 following intense lobbying by worker organizations, most specifically the Injured Workers Alliance and its president, Rob King. After a selection process, I was hired on a term basis. In 1999, the Worker Advocate Office was entrenched in legislation, the position I was in was converted to a permanent position and the Minister appointed me as Worker Advocate under Section 11 of the *Workers' Compensation Act*.

I would like to acknowledge the dedicated staff I have the privilege of working with. Eldon and Julie continue to handle a daunting workload with compassion and expertise. Both have done an outstanding job of forming good working relationships with frontline staff at the Board. I would also like to recognize the efforts of Sheri Hogeboom, who served as Worker Advocate for the first half of 2000 and now provides legal services to the office from time to time. Richard Buchan also provides the office with legal services on a contractual basis and has represented the office in court proceedings.

Although the Worker Advocate Office is, by its nature, often in opposition to the Workers Compensation Health and Safety Board, I must commend the Board and its staff. Every one of them is dedicated, conscientious and hard working. Their commitment to the compensation system is unequalled. The Board is challenged with balancing the needs of injured workers against the costs of the system, and they must recognize the financial impact on the employer community. Board staff are continually interpreting legislation and policies, deciphering complex medical and rehabilitation information, and they must undertake financial accounting for compensation benefits. When a dispute arises we all acknowledge it is not personal—Board employees base their decisions on the Act, policy or an interpretation of medical information. These individuals are honest and forthcoming, and our dealings are always professional. It is very much to their credit that we continue to meet with success.



I am certain I speak for all of us at the Worker Advocate Office, when I say it is a pleasure to serve the injured workers that we represent as we strive to meet our ongoing goal of lessening the burden that workers face after a work-related injury.

Michael Travill

Senior Worker Advocate

Worker Advocate Office Staff Profiles

Mike Travill, the Senior Worker Advocate, joined the newly established Worker Advocate Office in 1997. He worked alone for a year until an intake officer was hired, and a year later a second worker advocate joined the office. Mike's primary responsibilities include managing program and staff, fulfilling administrative requirements, developing policy, delivering education and training, and all appeal directions including direction of any court actions.



Worker Advocate Julie Docherty joined the office in September 2000. Julie handles most of the core functions of the Worker Advocate Office. As a worker advocate, her role is to prepare client cases, accompany clients to hearings and present on their behalf.

Eldon Organ has been the Intake Officer for the Worker Advocate Office since June 1998 and is the first point of contact for all clients who visit the office. He handles much of the daily communication between workers and the Worker Advocate Office and also performs all administrative tasks and scheduling.



What is a Worker Advocate and what does he or she do?

The job of a worker advocate is to support workers and protect their interests in their dealings with the Yukon Workers Compensation Health & Safety Board (YWCH&SB), and act as an 'interpreter' of the YWCH&SB actions. The worker advocate provides expert advice to injured workers and their dependents, and supports the early resolution of issues and disputes in the worker compensation process. In addition to interacting directly with clients, the worker advocate spends considerable time working at the policy level to improve the process for workers and provides information and training about the workers compensation system to workers' groups, labour organizations and others.

How does the Worker Advocate determine who to help?

The Worker Advocate Office acts on a priority basis, not on a first-come-first-served basis. The office prioritizes appeals, claims, issues and concerns through balanced consideration of several factors such as individual need, likelihood of success, availability of advocates and global impact.

For example, a worker with no income would have a higher priority than a worker receiving full benefits who seeks a lump sum settlement. Trying to reinstate a worker's pension would have priority over securing interest on money already received. Work on changes to a policy like CL-35, would take priority over a policy that would focus on indexing of benefits because CL-35 affects every seasonal employee. While all of these examples are very legitimate issues, the worker advocate must make tough decisions every day to prioritize cases.

Hearing and Appeal Process Overview

The first step in the process is usually a meeting between the intake officer and the client to discuss the situation. Cases sometimes develop as a result of misunderstanding or lack of clarity. Often the intake officer is able to resolve the issue quickly and easily by facilitating open and clear communication with all parties. To further investigate a client's case, the Worker Advocate Office can request a file from the YWCH&SB. Upon review, the worker advocate may meet with the client to explain or interpret the decision of the Board. The intake officer or worker advocate may decide to call an adjudicator to facilitate the process of finding common ground and clarifying facts. However, should the worker feel that the solution is not satisfactory, the Worker Advocate Office may forward the issue to appeal.

Stage One: YWCH&SB Hearing

The first stage in challenging a YWCH&SB decision is to take it to a hearing officer. This process is internal to the Board and is governed by Section 17 of the Workers' Compensation Act. Prior to being amended on April 1, 2000 this stage was called the Internal Review Committee. The Worker Advocate Office files the appeal for a YWCH&SB Hearing on behalf of the client, and the worker advocate presents on their behalf. The employer is also invited to attend. Often cases are resolved at the hearing, but the hearing officer may decide to stand by the Board's previous decision. If the client is unsatisfied with the outcome the worker advocate may assist in pursuing the matter with the Appeal Tribunal.

Stage Two: Appeal Tribunal

This stage used to be called an Appeal Panel, and it was heard by a subcommittee of the Board of Directors of the YWCH&SB. However, on April 1, 2000 a new independent body was established under Section 18 of the Act called an Appeal Tribunal, and it is now external to YWCH&SB. A three-person committee of the tribunal hears each case. The committee consists of a worker representative, employer representative and a neutral chair. Their decision is final and is to be implemented within 30 days. While the tribunal is more formal than a hearing and proceedings are recorded, lawyers are seldom involved. The tribunal members are more actively involved in the process, reading, researching and asking questions to

ascertain the facts and determine a decision. The employer is invited to attend and is welcome to ask questions of witnesses.

2000: The Year in Review

Year 2000 was a very busy year for the Worker Advocate Office. Staff members handle highly charged issues and clients and deal with a range of challenges—this year was no exception, although the number of appeals pursued by the Worker Advocate Office was down from previous years. This change requires explanation.

In tracking its activities, the Worker Advocate Office counts clients (people), not files or issues. Often people have more than one file, and each file could have several issues. In 2000, the Worker Advocate Office received 131 files and 67 updates from YWCH&SB for a total of 198. This represents a significant increase over 1999, when the combined number of YWCH&SB files and updates received was 137.

	2000	1999	1998
YWCH&SB Hearings (previously known as Internal Review Committee)	18	39	35
Number Withdrawn/postponed	7	6	
Appeal Tribunals (previously known as Appeals Board)	9	19	27
Number Withdrawn/postponed	2	4	

Hearings do not always reflect the workload or effectiveness of the Worker Advocate Office. It is the worker advocate’s and the YWCH&SB’s shared goal to resolve issues early; as a result increased effort is being spent on resolving issues before they go to appeal.

A brief summary of the program since its beginnings in late 1997 will help shed some light on the evolution of the Worker Advocate Office. The office was originally staffed with advocates from Manitoba while the Yukon was recruiting a worker advocate. Mike Travill was hired for the position in October 1997. For the first two full years of the program (1998 and 1999), the senior worker advocate’s time and resources were almost

**Premier Pat Duncan,
Government Leader:**
“We fully support the Worker Advocate Program and commend its hardworking staff for the important work they do. From the beginning, Yukon Liberals voiced strong support for the establishment of this program. We applaud the efforts of our worker advocates and look forward to their continued success.”

exclusively devoted to advocating for workers in hearings and appeals.

**Eric Fairclough,
Leader of the Opposition:**

“The New Democrat caucus firmly believes that injured workers should have an independent spokesperson to represent their interests in compensation matters, which are often quite complicated. That’s why our government amended the Act to create the worker advocate position, reporting through the Department of Justice.”

issues and has been involved in a number of court actions. And with a new worker advocate joining the office in late 2000, the senior worker advocate had to dedicate time to training. The intake officer was away for a month during the busy summer season. Meanwhile, the senior worker advocate took some leave from work for health and family reasons.

Because no file ever expires with the YWCH&SB, the net increase in clients in a given year reflects the number of new claimants the Worker Advocate Office is working with. Meanwhile, the base of existing clients still requires the attention of Worker Advocate Office staff. On December 31st, 1999 the Worker Advocate Office had 220 clients, and as of December 31st of 2000 staff were servicing 290 clients, some of whom have two or more files. This represents an increase of 70 clients in the year 2000.

Despite the demand, staff resources were limited during this period.

Though a second worker advocate was hired in 1999, she left after a year and the position remained vacant from April 2000 to September 2000.

Several other things have occurred that further influenced the direction of the Worker Advocate Office. In the past year, the senior worker advocate has turned his attention to policy

**Peter Jenkins,
Yukon Party Leader:**

“I have never seen a more dedicated individual than the senior worker advocate. Mike and his staff are dedicated and capable, and are faced with a very demanding task. They have helped a great number of people.”

Looking Ahead

The Worker Advocate Office has several goals for the coming year. Staff plan to develop and introduce a worker survey in 2001 to track worker satisfaction in dealing with the Worker Advocate Office. This survey will be an important evaluation tool for the program, and serve as a mechanism to follow up with clients. Because there is a tendency to interpret the program's success in 'win/loss' terms, the worker advocate is optimistic that such a survey will more accurately and usefully reflect the value of the Worker Advocate Office.

Establishing standards for determining whether the Worker Advocate Office is meeting its objectives will be a challenge. Win/loss terms are not a viable indicator of the program's success. The Worker Advocate Office could do an exceptional job of preparing and presenting a case only to have it determined that the merits of the case do not warrant 'winning'.

Currently, the program's policies are drawn from Section 11 of the *Workers' Compensation Act*. In the coming year the senior worker advocate intends to initiate the drafting of policies and procedures specific to the Worker Advocate Program to provide more direction. The Worker Advocate Office also hopes to complete a strategic plan and information management system to provide clear guidance to the program in the years ahead. This planning process will involve consultation with stakeholder groups.

In conjunction with workers advocates in other jurisdictions, the worker advocate is investigating indicators and standard approaches to tracking program activities. This will ensure that offices in different parts of Canada will be able to compare and contrast statistics and program measures.

2000 Financial Notes

After consultation with the Board of Directors of the YWCH&SB, the 2000 Budget for the Worker Advocate Office was set by the Minister of Justice at \$295,690.00. The budget is administered through the Department of Justice and controlled by the senior worker advocate (under Section 11 of the *Workers' Compensation Act*). Funding for the Worker Advocate Office is provided by the Workers' Compensation Fund.

Because this report is based on the Calendar Year—whereas Justice Department accounting is based on the Fiscal Year—it is complicated to provide an accounting of the Worker Advocate Office for annual reporting purposes. Full accounting of the Worker Advocate Office is most accurately reported through Justice Department financial statements.

The statements will reflect that total expenses for the Worker Advocate Office were \$202,940.00. This is substantially under-budget due to several unforeseen circumstances. The office was short one advocate for three months and without an intake officer for one month, resulting in substantial savings in staffing costs. Legal/medical costs for 2000 were overestimated since costs were incurred at the end of the 2000/2001 fiscal year, not in the 2000 calendar year. Training and travel costs were also reduced because shortages in personnel prevented staff from attending training and a major national conference.

In the past year, the Worker Advocate Office has evolved into a much more stable entity. It is anticipated that budgetary spending will stabilize and be maintained at approximately \$300,000.00.