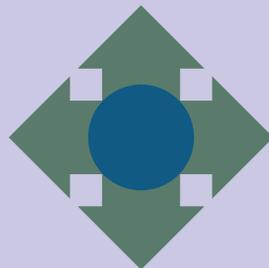


A Review of the Calgary



Issues and Implications for Child Witnesses and the  
Criminal Justice System



**RESOLVE**



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## **Executive Summary**

Historically, children have always been victims of abuse. These acts were often tolerated or even encouraged because of society's view of children's rights. The increased awareness of child abuse and neglect has been associated with a greater focus on children as witnesses in court proceedings (Lipovsky & Stern, 1997). Many child abuse cases make it into the court system and children are increasingly being asked to testify. Testifying can potentially be stressful and even traumatic for some child victims. The court experience can compound the effects of their original victimization (Child Witness Project, 2002). Across Canada, court preparation programs have been established to reduce the trauma and revictimization that child witnesses often experience and to increase children's ability to effectively testify in court. The court process itself should not subject the child to further trauma and abuse.

The present study examines client and court outcome variables from a file review of cases from the Calgary Child Witness Court Preparation Program (CCWCPP) operating in Calgary, Alberta, Canada. The findings are compared and contrasted to two other court preparation programs in Canada. The research also consists of interviews with 41 key stakeholders in the justice system, gathering their impressions of the utility of the Calgary Child Witness Court Preparation Program for children/youth and their families as well as ensuring that the accused were held accountable.

### **The Calgary Child Witness Court Preparation Program**

Since its inception in January 1992 to 2003, the Calgary Child Witness Court Preparation Program received 2129 documented referrals and prepared 785 victims and witnesses in the Calgary region for court. These children were expected to testify as victims or witnesses in such court cases as those involving child sexual abuse, child physical abuse, domestic violence, and homicides.

The court process can be very frightening for adults, let alone young children. The prospect of telling their circumstances in a courtroom full of adult strangers, and especially facing the offender, is very challenging for children. The Calgary Child Witness Court Preparation Program does not allow children to discuss what happened to them, since this would affect their testimony; but does help to demystify the courtroom and the court process for these child victims. This helps the children feel less fearful, less alone, less intimidated, and more confident in the very adult environment of the courtroom.

The Court preparation facilitators are professional, experienced child welfare workers who volunteer their time to ensure that victimized children are not further traumatized by their court experiences. The program director and consultants for the program are experts in the field of child abuse with many years of experience.

The structured curriculum was developed by the Calgary Child Witness Court Preparation Program to guide facilitators through an accountable and standardized manner of preparing children. The primary mode of service delivery is through the provision of six week groups which are offered once per week for 1-1/2 hours, while three hour booster refresher sessions are offered monthly and individual preparation is provided as required.

## **Key Stakeholder's Perceptions of Children Testifying**

The 41 key stakeholders interviewed for the current study included child welfare workers (6), police officers (9), Crown prosecutors (5), therapists (8) and 13 Court preparation facilitators, only one of whom does not work in child welfare as a full-time day job. One of the first questions was, "What are some of the typical reactions of children when they are anticipating going to court?" For the overwhelming majority of children who must testify, court is a stressful experience, according to the key stakeholders. Nevertheless, a minority of children are motivated to testify and want the perpetrator to have a consequence.

Most children, though, find testifying stressful. The most stressful circumstance is when children must testify against a family member. Children may also be stressed because they lack support from their family. The nature of the offence can also affect how stressed the child is, with children testifying about sexual abuse being the most anxious. As well, younger children generally have more difficulty testifying. Aspects of the courtroom experience and the court system are also stressful including: having to face the offender, being cross-examined and delays in the case getting to court.

With all the stressors for children and the challenges to getting cases involving children properly heard in court, stakeholders argued that changes should be made to the court system. They provided a number of suggestions for making courtrooms and the court system more child-friendly, including: child-friendly courtrooms, court personnel sensitive to children's needs, a variety of strategies so that children would not have to face the accused, a support person with the child in the courtroom, cases getting through the court system faster and more support for parents.

## **The Court Preparation Program File Review**

The quantitative analysis of the Calgary Child Witness Court Preparation Program (CCWCPP) was conducted on data gathered from case files from between 1992-2003, including demographic information for the children who were both referred to and attended the program (i.e. sex, age, and race), child's residence, victim/witness status of the child, caregiver of the children, relationship to the offender, sex of the offender, referral source, date of original charge, criminal charges, type of offence, duration of time between original charge and trial court, court outcome, dispositions, children's testimony, use of witness screens, use of videotape disclosures, and program involvement and attendance.

The demographics of the children involved in the Court Preparation Program were fairly consistent with the children involved in other court preparation programs highlighted in the literature review, with some notable exceptions. Gender was almost evenly split with slightly more girls being referred to the program.

Adolescents between the ages of 12-15 years of age made up the largest group of child victim/witness clients, with 42% of the participants in this age group. The Calgary Child Witness Court Preparation Program will need to be mindful of their older adult population when devising program content and implementation.

The present study found that a majority of participants of the program were of Caucasian descent. Slightly less than 9% of participants were Aboriginal children. This

is much higher than the percentage of people who are Aboriginal in Calgary according to the 2004 City of Calgary Civic Census Information, which states that Aboriginal persons make up 1.8% of the city population (The City of Calgary, 2004). The racial background of children prepared in the program and the referred-only children are similar. It is unclear how the program's racial breakdown compares to the racial breakdown of the criminal justice system in Calgary overall.

The large majority of children who participated in the program were residing with one or both of their natural parents. This was also true for the referred-only children. A small percentage of children lived in residential or group settings at the time of referral. Most of the children referred to and who participated in the program were victims as opposed to witnesses of a criminal offence. A very small percentage of children were both victims and witnesses.

In terms of referrals, police made up the largest source with almost all referrals coming from them. Few referrals came from child welfare, Crown prosecutors, community organizations and parents. Likely this is a reflection of the nature of the victim/witness involvement in the criminal justice system – that police are one of the first responders to criminal actions, and therefore are the first to have an opportunity to make a referral to a court preparation program.

In terms of types of offences, the Calgary Child Witness Court Preparation Program receives mostly referrals for physical and sexual offences, with physical offences outnumbering sexual offences slightly. The program also receives referrals for property-related offences (n = 349). "Other" offences (i.e., homicide, uttering threats, prostitution, public mischief, traffic offences, causing a disturbance, etc.), are referred but these offences combined only represent approximately 10% of referrals.

The type of offence differed with gender. Girls were more likely to be victims of sexual offences than boys. This is consistent with the two other studies which also found that girls were much more likely to be victims of sexual assault than boys. Further, this trend is consistent with the literature which suggests that girls are more likely to be victims of sexual abuse than boys. Boys were more likely to be victims of physical offences than girls; however, the difference was not as profound as in the case of sexual offences.

The relationship between the victim/witness and accused was also examined. The results were similar to the other studies in that most of the children were victimized by people known to them. Most of the offenders were known to but unrelated to the victim. Peers made up the largest group of offenders. In the study, peer-to-peer violence mostly involved physical violence against a male victim.

It appears that gender is associated with the type of victim/offender relationship. Girls who participated in the program were more likely to be victimized by a family member or trusted adult than boys, while boys were more likely to be victimized by a peer. This relationship was statistically significant. Also, when victim/offender relationship is combined with gender and type of offence, it is revealed that girls are sexually victimized by trusted adults more than boys, whereas boys were physically assaulted by trusted adults. Boys were victimized more by strangers than girls. This may be due to the higher rates of property offences perpetrated against boys, which many

involve strangers as the offenders. Taking into account all types of offences, peers victimized boys more than girls.

The study attempted to collect information about victim/witness involvement in the criminal justice system, however the criminal justice system does not consistently track and document cases in which children testify. Therefore, it was not possible to determine if children who testify are significantly different than children who do not testify, either by age, gender, race, type of offence, and/or relationship to offender. When information was available on the reasons why children did not testify, it appears that most of the cases did not proceed to trial or that the offenders pled guilty, saving the children from having to testify.

Almost 21% of offences involving children who participated in the Calgary Child Witness Court Preparation Program did not proceed to trial, as charges were withdrawn, dismissed or stayed. This is consistent with other Canadian court preparation programs.

For the Calgary program, more than half of both sexual and physical offences resulted in a finding of guilt either through a conviction or the offender pleading guilty, although it appears that offenders of physical assault pled guilty more than sexual offenders. Also, more physical offences did not proceed to trial than sexual offences. This is an interesting finding as one might expect the opposite to be true. Also, for the physical assault referrals that proceeded to trial, approximately six percent of physical assault cases resulted in an acquittal, whereas almost one quarter of the sexual offences resulted in an acquittal.

The relationship between the type of offence (physical vs. sexual) and trial resolution (acquittal vs. conviction) was statistically significant, indicating that sexual offences were more likely to result in an acquittal than physical offences. Intrafamilial offenders were no more likely to be convicted than non-family members. Relationships between various demographic variables and trial resolution were also examined. Both gender and age of the victim/witness were not related to the acquittal or conviction of an offender.

Jail was the most common form of offender disposition (almost 40%). Less than one quarter of convicted offenders received a term of probation. The information that has been gathered at this point suggests that offender probation and incarceration is similar to other programs. The length of probation ranged from one month to three years, with the average length being slightly less than 16 months. As for jail time, the length of incarceration ranged from one month to 25 years, with the average jail time being approximately 15 months. Other dispositions included suspended sentences, fine/restitution, community service, and conditional or absolute discharges.

The present study also found that sexual offences resulted in a higher proportion of jail sentences than physical offences. Probation only varied slightly between sexual and physical offences, with sexual offences resulting in slightly more probation sentences. Further, it appears that much longer jail and probation sentences were given for sexual offences. This is likely because the sexual offenders were primarily adults, whereas a large portion of the physical assault offenders were the victims' peers, many of which were likely first-time offenders.

The study examined the length of time that child victims/witnesses were involved in the criminal justice system. A large proportion of cases that proceeded to trial were in the criminal justice system for seven to 12 months. The lengthy delay in the criminal justice system should have significant implications for the Calgary Child Witness Court Preparation Program. If they have not already, the program should develop strategies to deal with the trauma that children may experience while waiting to testify.

Almost no information was available within the justice system on the use of courtroom innovations such as courtroom screens and videotaped disclosures. This is key information to collect as it can provide information about the courtroom context in which the child is involved. For instance, the child may testify more accurately and effectively if they are protected by a courtroom screen. Also, the use of videotape testimony may reduce the need to have a child testify, thereby reducing the secondary trauma that is frequently associated with testifying in court.

In terms of specific program involvement, the large majority of children who attended the program attended group sessions, as opposed to other formats including individual or booster sessions. In terms of gender and program involvement, boys and girls had similar rates of involvement in all program components, including group, individual and booster sessions.

### **Stakeholders' Impressions of the Court Preparation Program**

These interviews collected feedback from Calgary's key community stakeholders with respect to children testifying in court. The information is with respect to the implementation of the Court Preparation Program and its impact on the children/youth, families and members of the justice system.

One key question for the current research was whether the Calgary Child Witness Court Preparation Program was considered accessible. The successes and challenges related to accessibility included: barriers to accessing the program, children not being referred to the program, the ease of making referrals to the program and accommodations made by the program for special needs. Overall, satisfaction with the accessibility of the Court Preparation Program was high.

All of the stakeholders were satisfied or very satisfied with the curriculum. Several did not know the curriculum first hand, but based their rating on the knowledge the children they have worked with have gained from the program. The Court Preparation Program provides good basic information about the court process according to half (twenty-one) of the stakeholders. Commonly mentioned as a key aspect of the program was the courtroom tour, which familiarizes the children with the courtroom and helps them feel more comfortable.

The stakeholders were asked how satisfied they were with the service they had received from the Court Preparation Program staff and the friendliness of staff. Of the 11 justice system respondents who answered this question, all were satisfied or very satisfied. Two therapists commented on the dedication of the volunteer facilitators.

The stakeholders were asked whether they believed that the Court Preparation Program had an impact on children's ability to testify. All respondents to this question

indicated that the program had a positive impact and most commented that the impact was considerable.

*Court Prep is a huge resource. It's the difference between making a child witness credible or not. If a kid is not a credible witness, the hope is that Court Prep will make them more comfortable so they can tell their story and be a better witness.* (Police officer)

*It's absolutely crucial to have that preparation. The program reduces their apprehension and fear and makes it easier for them to testify. I know that child who's been to Court Prep has the basics. I can get right to where I should be spending my time, going through their evidence.* (Crown prosecutor)

In summary, the 41 key stakeholders had considerable positive feedback for the Court Preparation Program, perceiving it as an invaluable support for children that need to testify in court, their parents and the justice system. They also made several suggestions to improve the accessibility to and implementation of the program.

### **The Results in Context with the Research Literature**

The results of the current file review of close to 2129 referrals from 1992 to 2003 and the qualitative interviews with 41 key justice and community stakeholders are consistent with the literature presented in the two chapters that review the published research. The stresses and trauma experienced by children and youth both before and during their testimony are well documented by both the literature and the stakeholders in the current study (Edelstein et al., 2002; Sas & Cunningham, 1995). This is especially so when the accused is a family member or trusted adult and the child or youth must face them in court (Goodman et al., 1992; Lipovsky et al., 1991; Whitcomb et al. 1985).

Although legislation and innovations such as the use of screens/shields, closed courtrooms and videotaped testimony have been proposed to facilitate children's testimony, given their developmental stage, the extent to which these strategies are utilized is not readily available (Lipovsky, 1994; Sas et al., 1991; Saywitz & Goodman, 1996).

Court preparation programs for children and youth were originally developed in the 1990's to prepare children to testify whether or not any specialized strategies were used (Child Witness Project, 2002). While there are many court preparation programs operating throughout North America, it is unclear how many have been evaluated to determine their impact on children and court outcomes. Two programs with recently conducted evaluations (both unpublished), were Canadian: the Child Witness Project operated by the London Family Court Clinic (Sas et al., 1993) and the Child Victim Witness Program operated through the Victims' Services Division of the Nova Scotia Department of Justice.

These evaluations and the writing of other authors confirm that to bring a child into a complex, potentially stressful experience without preparing them for what to expect would be unthinkable. According to several, the more preparation the child witness can be given the better (Perry & Wrightsman, 1991; Saywitz & Snyder, 1993).

The interviews with key community and justice stakeholders in the current evaluation confirm the importance of the Calgary Child Witness Court Preparation

Program in making a substantial difference for children and youth who must testify. The many case stories and descriptions of the difficult circumstances faced by these young victims of child abuse and other crimes, is the most powerful evidence that court preparation programs can have significant impacts on children.

Several recommendations were included in the report for consideration by the program. The majority have already been implemented and fit well with several new initiatives to fast-track child abuse cases.

## **Conclusion**

Increasingly, child victims are required to testify in court. Research demonstrates that many children who testify experience significant trauma, often compounding the effects of their original victimization. Court preparation programs specific for children are increasingly being implemented across Canada. These programs are designed to reduce the trauma and revictimization that child witnesses often experience and increase children's ability to effectively testify in court. Most studies to date have been primarily descriptive in nature, including the present study. The file review of the Calgary Child Witness Court Preparation Program highlights the extent to which the program has been utilized over a 12 year time span.

The qualitative interviews from key stakeholders support the value and efficacy of the Court Preparation Program in assisting and supporting both parents and children through the ordeal of testifying. The study respondents documented a number of case examples in which children told their stories in court and even felt empowered by having done so.

Perhaps most importantly, the quotations from the key stakeholders remind us of the realities of the experiences of too many young children and youth who have been intimately violated by those whom they should have been able to trust: family members or adults in care-giving positions. That these youth should not only suffer the immediate and long-term consequences of abuse but must subsequently face the fear and uncertainty of a future appearance in court that could potentially re-traumatize them bears significant public attention. The support provided by the Calgary Child Witness Court Preparation Program for both children and their families is significant in assisting them to not only testify, but at best, to feel empowered by the experience.

In conclusion, the evaluation results remind us that child abuse is an ongoing and serious concern. If perpetrators are to be brought to justice, child witnesses must be adequately prepared. Programs such as the Calgary Child Witness Court Preparation Program are essential in supporting both the child/youth victims and their families. The impact of such support is essential to both the justice system and to helping those impacted by child abuse move on with their lives.

## **Chapter One: Child Abuse and the Justice System**

Historically, children have always been victims of abuse. These acts were often tolerated or even encouraged because of society's view of children's rights. New norms and expectations developed as childhood became a special phase in the life cycle (Morgan & Zedner, 1992). The last two decades have seen a remarkable change in public recognition of the scope and extent of child abuse, neglect and exploitation and the harms they cause (Department of Justice Canada: Family, Children and Youth Section, 1999b). There is evidence that public tolerance of violence towards children has diminished, partly because of well-publicized cases of children dying after being badly abused and partly because of a well-orchestrated campaign to make child abuse an issue of public concern (Nelson, 1978; Department of Justice Canada: Family, Children and Youth Section, 1999b).

The Canadian Incidence Study of Child Abuse and Neglect, 2003, Major Findings (Trocmé et al., 2005) reported that in 2003, 217,319 child investigations were conducted in Canada, excluding Quebec, with 47% of the cases being substantiated. The rate of substantiated maltreatment in Canada, excluding Quebec, has increased 125%, from 9.64 substantiated cases per thousand children in 1998 to 21.71 per thousand in 2003. This increase in documented maltreatment may be explained by improved and expanded reporting and investigation procedures such as changes in case substantiation practices; more systematic identification of victimized siblings and greater awareness of emotional maltreatment and exposure to domestic violence.

Neglect (30%), exposure to domestic violence (28%), and physical abuse (24%) were the three primary categories of substantiated maltreatment (Trocmé et al., 2005). The incidence of substantiated physical abuse as a primary reason for investigation was 5.31 per 1,000 children (MacLaurin et al., 2005). Neglect was substantiated in 6.38 per 1,000 children and for emotional abuse it was 3.23 per 1,000 children (Trocmé et al., 2005). The rate of children's exposure to domestic violence as a primary category of maltreatment was 6.17 per 1,000 children (Black et al., 2005). Investigations pertaining to sexual abuse were substantiated in .62 of 1,000 cases (Fallon et al., 2005; Trocmé et al., 2005).

The Canadian Incidence Study of Child Abuse and Neglect (Trocmé et al., 2005) determined that in 2003, the police laid charges in approximately 8% (1,960) of 25,243 physical abuse cases, in 39% (1,132) of 2,935 sexual abuse investigations; 3% (1,026) of 30,367 neglect cases, 2% (291) of 15,356 emotional abuse cases and 2% (554) of 29,370 exposure to domestic violence cases. This translates to approximately 5,000 cases a year in which children may be required to testify in court proceedings. However, for a number of reasons, only a small proportion of even the reported cases actually come to trial (Whitcomb, Shapiro, & Stellwagen, 1985).

The increased awareness of child abuse and neglect has been associated with a greater focus on children as witnesses in court proceedings (Lipovsky & Stern, 1997). Many child abuse cases make it into the court system and children are increasingly being asked to testify. Testifying can potentially be stressful and even traumatic for some child victims. The court experience can compound the effects of their original victimization (Child Witness Project, 2002). Across Canada, court preparation programs have been

established to reduce the trauma and revictimization that child witnesses often experience and to increase children's ability to effectively testify in court. The court process itself should not subject the child to further trauma and abuse.

The present study examines client and court outcome variables from a file review of cases from the Calgary Child Witness Court Preparation Program (CCWCPP) operating in Calgary, Alberta, Canada. The findings are compared and contrasted to two other court preparation programs in Canada. The research also consists of interviews with 41 key stakeholders in the justice system, gathering their impressions of the utility of the Calgary Child Witness Court Preparation Program for children/youth and their families as well as ensuring that the accused were held accountable.

This chapter presents literature and research with respect to the impact on children and families of a child needing to testify in court, problems and legislation related to children providing testimony and an analysis of the utility of special considerations in court such as screens and videotaping.

### **Legislative and Court Procedures Relevant to Child Witnesses**

For years there has been an unresolved tension between protecting the rights of the accused in the criminal court process and accommodating the unique needs of young children who are becoming more frequently involved in the justice system. By its very nature, the criminal process offers greater safeguards to the defendant with the requirement that the prosecution prove the case "beyond all reasonable doubt" (Morgan and Williams, 1993). When special procedures are invoked to reduce the potential traumatization of child witnesses, the defendant's constitutional rights may be jeopardized (Melton, 1984). While it is morally admirable to protect children from harm, it is also important that our system of justice is founded on protection of the constitutional rights afforded to each and every citizen (Perry & Wrightsman, 1991). However, Melton (1984) notes that the privacy interests of the child victim are likely to carry less weight in a balancing test than the rights of the defendant, which are constitutionally protected and therefore fundamental.

With the recognition that an adversarial system that disadvantages children cannot ultimately address the interests of justice, it is useful to review the literature regarding the challenges that children face in the courtroom and their needs for support and preparation. Effective court preparation strategies must address these challenges and barriers and root best practice in the framework of current legislation and court procedures.

Significant revisions have been made to the process of prosecuting cases involving child victims within the past two decades. In 1983, substantial changes to the sexual offence provisions of the *Criminal Code of Canada* resulted in an increase in reported sexual abuse cases (Child Witness Project, 2002). In 1984, the Badgley Commission released its landmark report on the application of the *Criminal Code of Canada* and the *Canada Evidence Act*, recognizing that all members of society have special duties and responsibilities toward children (Department of Justice Canada: Family, Children and Youth Section, 1999a).

In 1988, procedural changes and evidentiary provisions were affirmed in the *Criminal Code of Canada* and *Canada Evidence Act*, making it easier for child victims to testify against their abusers. An Act to amend the *Criminal Code of Canada* and the *Canada Evidence Act* as it pertains to children (formerly Bill C-15) was enacted on January 1, 1988 and had four broad goals according to Ursel and Gorkoff (2001).

- (1) To provide better protection to child sexual abuse victims;
- (2) To enhance successful prosecution of child sexual abuse cases;
- (3) To improve the experience of the child victim/witness; and
- (4) To bring sentencing in line with the severity of the offence (Ursel & Gorkoff, 2001)

This child-friendly legislation allowed a child to testify outside the courtroom or behind a screen (Subsection 486.2(1)); and allowed the admissibility of videotaped statements made by child witnesses under the age of 18 years at the time of the offence providing that the child adopted the contents of the tape (Section 715.1).

In 2005 and 2006, the Canadian parliament amended both the *Criminal Code of Canada* and the *Canada Evidence Act* by passing *Bill C-2*, which introduced further procedural reforms intended to facilitate testimony by young persons and broaden the courts' ability to accommodate the needs of children and other vulnerable witnesses in a variety of criminal justice proceedings (Bill C-2, 2006; BC Association of Specialized Victim Assistance and Counselling Programs, 2006).

### **Trends in Charging and Conviction Rates**

Between 2001/2002 and 2002/2003 there was an overall increase of 12% in child sexual exploitation cases (2,854 cases) in Canada with a 12% increase in the number of sexual interference cases and a 17% increase in the number of sexual exploitation cases. The proportion of cases that proceeded through an indictment was relatively consistent (i.e., approximately 50% or more) across the time periods (Department of Justice Canada: Family, Children and Youth Section, 2006b). The overall conviction rate for cases of child sexual exploitation in Canada in 2002/2003 was 38.5%, which is much lower than the general conviction rate in adult court (60%), lower than the conviction rate for violent offences (50%), and slightly lower than the conviction rate for sexual assault cases (41%) (Department of Justice Canada: Family, Children and Youth Section, 2006b).

Cases that proceeded by way of an indictment were less likely to be stayed or withdrawn (41%) compared to cases that proceeded summarily (59%). Cases where the most serious offence was possessing or accessing child pornography had the highest conviction rate (60.4%), followed by communicating with a child for the purposes of prostitution (55.2%), distributing child pornography (54.6%), and exposure to a person under 14 years of age (50.8%). Cases of anal intercourse and living off the avails of prostitution were rarely convicted in adult court. The conviction rate for the remaining offences ranged from approximately 30% to 40% (Department of Justice Canada: Family, Children and Youth Section, 2006b).

Almost half (47.2%) of all child sexual exploitation cases resulting in a guilty decision received a custodial sentence while 29.1% resulted in probation and 21.5%

resulted in a conditional sentence. In comparison, 47% of all sexual assault cases received custody, 32% received probation, and 15% received a conditional sentence. When looking at *all* convicted cases in the study, the numbers are somewhat different: 35% of cases received custody, 30% received probation, and only 4% received a conditional sentence (Department of Justice Canada: Family, Children and Youth Section, 2006b).

Child sexual exploitation cases that proceeded by way of an indictment were much more likely to receive custody (72%) compared to those cases that proceeded summarily (28%). Incest was the most likely offence to receive a custodial sentence (87.5%), followed by invitation to sexual touching (57.5%) and sexual interference (49.7%). Exposure to a person under the age of 14 years was the least likely offence to receive custody (19.4%) (Department of Justice Canada: Family, Children and Youth Section, 2006b). It has been proposed that by amending the fundamental principle of sentencing in Section 718.1 to deem offences by adults against children that cause harm to the victim to be inherently grave and the degree of the offender's responsibility to be correspondingly grave, this would better recognize the responsibility that all adults in society have toward children because of their vulnerability as they develop (Department of Justice Canada: Family, Children and Youth Section, 1999b).

### **Competency Challenges for Children as Witnesses**

Many emotional battles are waged in the nation's courtrooms around the credibility of child witnesses (Ceci & Bruck, 1995). For a child to be perceived as credible, he or she must first be perceived as competent. However a judgement that the child is competent to testify does not ensure that the child will be perceived as credible by judges and jury (Perry & Wrightsman, 1991). Witness credibility will be related to the issues of memory abilities, resistance to suggestion and language. Rauf (1993) writes that, in the past, evidence given by a child could not found a conviction unless it was confirmed or corroborated by independent evidence. In Canada, the requirement for the corroboration of the testimony of a child giving un-sworn evidence was statutorily abolished by the 1988 legislative amendments (Bala, 1992). The Ontario Court of Appeal overturned the 1989 decision of judges in the Ontario Court of Appeal saying that because there was no confirmatory evidence, the court was treating the evidence of the children as inherently less reliable than adult evidence might be.

Children, in general, may be viewed as less credible witnesses than adults despite their competence to give accurate information (Perry & Wrightsman, 1991), which in turn may affect the legal outcome of the case (Fivush et al., 2002). Legal outcomes of child abuse cases seem to be largely related to the age of the victim with younger children often perceived as less competent and more vulnerable to suggestion and contamination (Ceci & Bruck, 1995; Saywitz & Lyon, 2002). Research conducted by Stroud et al. (2000) indicated that cases referred for prosecution are more likely to be tried if the child is older. Ceci and Bruck (1995) noted that there are reliable age differences in children's suggestibility, with preschoolers being more vulnerable than older children to a variety of factors that contribute to unreliable reports but notes that measures can be taken to lessen the risk of suggestibility such as avoiding repeated interviews, repeated questions and leading questions. Expert witnesses are often called to court to speak to the reliability of a child's report and to the complexity of the research on children's competencies.

Until 2006, federal legislation dealing with child competency (Section 16 of the *Canada Evidence Act*) contained an imbedded assumption that children under 14 years of age are incompetent to testify until shown otherwise. This section set out the procedure for the qualification of child witnesses and those whose mental capacity was challenged. In each case a “voir dire” (special hearing) had to be held to determine whether the child was competent to testify – a process that was only conducted with adults when there was reason to believe that they were not competent (Department of Justice: Family, Children and Youth Section, 1999b). The judge had to determine whether the person understood the nature of the oath or solemn affirmation and whether the person could communicate the evidence (Van Tongeren Harvey & Daun, 2001).

With the introduction of Bill C-2 (2006), Clause 27 adds Section 16.1 to the *Canada Evidence Act* which makes it clear that a person under 14 years of age is presumed to have the capacity to testify. Section 16.1 also clarifies that the new test for the receipt of a child’s evidence is that the child is able to understand and respond to questions. A child under the age of 14 years is no longer required to take an oath or make a solemn declaration. Instead, a child is required to promise to tell the truth. No inquiry will be permitted into a child’s understanding of the nature of such a promise, and the evidence given by the child shall have the same effect as if it were taken under oath. The assumption of children’s competence in this legislation change is a significant step towards recognizing the credibility of children.

### **Reactions When a Child is Required to Testify in Court**

Children who are required to testify typically fear attending court for several reasons: they must face their abuser; they believe that the abuser will be found not guilty; or that providing the details of their abuse will be embarrassing and humiliating. Because of excessive fear and trepidation regarding the court process and possible outcomes, it is not surprising that many children refuse to attend court (Olivier, 1996).

Anticipating having to testify in criminal court creates distress and anxiety for many children (Edelstein et al., 2002). Children’s anxiety must be considered, even though, ultimately, they may never be required to testify. Berliner and Conte (1995) interviewed 82 children and families approximately 3½ years after they had been seen at Harborview Sexual Assault Centre. About half of the children had, at some point in the legal process, believed that they would have to testify in court, although only 15% actually did. While waiting for court in the London Child Witness Court Project study, 47% said they had at times wished the case would stop (Sas & Cunningham, 1995).

A child’s concerns about testifying and the court process should be determined. Professionals must not let their own feelings about the criminal justice process determine the answer to this question (Stern, 1993). In England in 1994-1995, Wade (2002) found that children identified a lack of knowledge of the court process as a source of anxiety about their court appearance more than any other subject. In addition to anxiety related to the court process in general, a child’s fear of confronting the defendant must be assessed. Researchers consistently report that children who were the most stressed by the presence of the perpetrator or by the courtroom environment were both less willing to say what happened and less accurate and complete in their reports (Cashmore, 2002).

A complex issue, but one that should be addressed, is a child's perception of the meaning of testifying against the alleged offender. If the defendant is a family member, the child may be reluctant to testify for fear of sending him or her to jail (criminal court) or of breaking up the family (family court). Similarly, the child may be reluctant to testify, fearing that the case will be lost and that it will be the child's fault. Other fears include what happens if the defendant gets angry and yells in court, harsh questioning, and not being believed (Copen, 2000). It is important to remind the child that the prosecutor, not the child, is responsible for the outcome of the case.

Copen (2000) identified some typical common fears expressed by parents anticipating their child having to testify in court: "I think I'm losing my mind!," "How could this happen to my child?," "I am so mad I could kill!"; "I have seen on TV what happens to witnesses in court"; "I don't want my child damaged or scarred for life, or ripped to shreds by some slick lawyer!"; "What if my child is too scared to see the defendant?"; "How long will this case drag on?" In essence, parents are significantly concerned that the court process will have a negative impact on the emotional well-being of their child – that the children will be brutalized by court procedure and that adjournments will needlessly prolong the case.

Parents who worry about their child's emotional well-being or the overall safety of their family (due to a child's disclosure or witnessing of an event) may become uncooperative or hostile. When a parent is uncooperative with the law or legal authorities, it is likely that his or her child will become similarly uncooperative. Negative parental attitudes toward the criminal justice system have a direct impact upon children's anxiety about testifying and so, must be addressed (Goodman et al., 1992). For these reasons, it is important to identify and address parents' concerns as quickly as possible (Copen, 2000).

### **Communication Challenges: Strategies and Legislation**

The following section documents a number of challenges with respect to children's modes of communication at different developmental stages, and strategies and legislation introduced to take these into consideration.

#### *Cultural Issues for Children Testifying*

Testifying in a mainstream court setting may pose problems for children from non-mainstream cultural groups. Recent research suggests that Aboriginal children consistently demonstrate average or superior performance on visual/spatial abilities and below average performance on verbal skills. Aboriginal children are more naturally inclined to learn through observation and visual stimulus (Clarke et al., 1996). The ethic of emotional restraint promotes self control and discourages the expression of strong or violent feelings. Aboriginal children appear "shy, reserved, withdrawn and reticent" in conversation and when the children are confused or unsure of what is being asked of them, they may be readily agreeable to suggestion.

The justice system relies heavily upon detailed verbal explanations of events and circumstances in both investigative and decision making processes. Utilizing different communication approaches such as avoiding eye contact and an apparent reluctance to disclose information in the presence of the one being criticized are even more pronounced

when children are subjected to aggressive questioning or placed in uncomfortable surroundings. Their discomfort may stifle their ability to communicate in a courtroom environment and add to their sense that they will not be understood. Some cultural groups may pressure children not to report wrongdoing within a family system. In Aboriginal culture, the determination of guilt is secondary to the restoration of harmony within the community (Clarke et al., 1996).

### *Language, Memory and Suggestibility*

As noted by Van Tongeren Harvey & Daun (2001), children have various means and levels at which they are able to communicate to adults, both non-verbally and with language. This language may be riddled with misconceptions children have about the order of things in this world. There are also children who depend on the skills of interpretation of the adult recipient who is aware of a child's level of development, sense of time and ability to express thought. It is important that the court recognize that children may experience difficulties in expressing forms of measurement, colour, time, distance measurement, quantity measurement such as height, weight, or age, body parts and family relationships.

When the Crown prosecutor conducts the examination in chief, there is an expectation that the child will be able to recall memories of the incident in question with minimal cuing. The prosecutor will encourage the witness to provide a free narrative account of events, since leading and suggestive questioning styles are, by the rules of evidence, disallowed.

In general, older child witnesses are better able to encode, store, retrieve and communicate memories through the spoken word in an unfamiliar environment such as court (Saywitz, 2002; Ceci & Bruck, 1995). As children's knowledge increases with maturation and experience, their abilities to perceive and store the kind of forensically relevant information required of a witness improve (Saywitz, 2002). Older children and adults use more complex and successful retrieval strategies than younger children to increase the amount of information they retrieve independently (Pressley & Levin, 1977; Ornstein, Naus & Liberty, 1975).

With respect to developing strategies to assist children with their memories in the courtroom, the literature suggests preschool children can learn how to improve their memory and are capable of learning to use various strategies effectively (Baker-Ward et al., 1984). Children's narratives begin as fairly skeletal descriptions that are loosely organized, idiosyncratic and dependent on the context in order to trigger the retrieval process (Saywitz, 2002), which can make it more challenging for young children to remember in court. The retrieval cues that trigger memory are certainly among the most important components of the context (Baker-Ward & Onstein, 2002). Saywitz (2002) also stresses the importance of court preparation strategies that will better develop children's associative abilities and comprehension.

However, no such limitations apply to cross-examination regarding such questioning, only in as much as they do not invite irrelevant or inadmissible answers (Wheatcroft, Wagstaff, & Kebbell, 2004). Faller (2003) notes that lawyers may try to use language that is confusing to a child so that their confusion may lead to the provision of

inaccurate information. Thus the purpose of cross examination is to challenge witnesses' evidence and their credibility. In cross-examination, defence counsel is allowed to use leading and suppositional forms of questioning, which can often influence the accuracy of the information provided by the child.

Questioning styles, which can include confrontation, further contribute to children being intimidated and more reluctant to communicate their information. Another defence strategy of using complex questions, frequently results in children inaccurately answering questions that they do not understand (Perry et al., 1995).

Another challenge to children trying to handle the cross-examination process has been the provision under the *Criminal Code of Canada* that allowed children over the age of 14 years to be cross-examined by the accused on sexual or violent offences if he/she chose not to retain a lawyer. The new Section 486.3(1) of Bill C-2 (2006) extends that prohibition to any proceedings in which the witness is under 18 years, upon application by the prosecutor or witness, unless the presiding judge or justice is of the opinion "that the proper administration of justice requires the accused to personally conduct the cross-examination."

The relationship between stress and memory has been controversial when applied to the court context (Fivush, 2002). Easterbrook (1959) has proposed that memory is enhanced with moderate levels of stress (perhaps such as a more minor abuse incident) while at extreme levels of stress (such as severe sexual abuse or a distressing testifying experience) memory will be hindered. Alternatively, Terr (1991) has argued that a single occurrence of extreme stress will be vividly and accurately recalled, but repeated stressful experiences will lead to more fragmentary memory. Thus memory in court may be linked to the stressful circumstances of the experienced offence as well as the stress the child experiences in the environment while testifying. Effective court preparation programs are ones that assist children to deal with heightened levels of stress through such activities as mock testifying/role-playing.

Another concern as it relates to memory is the length of time from the child's disclosure to his/her appearance at trial. As children's memories of events may be compromised over time, Canadian police began videotaping their investigative interviews with children in sexual abuse cases, both for possible use in a criminal prosecution, and to share with child welfare investigators and other professionals. Videotaping the interview of a child at the time of the initial disclosure can prevent concerns about the child's memory deteriorating by the time of the trial (Eaton et al., 2001).

Cashmore (2002) notes that one of the main reasons for taping statements is to increase the accuracy and completeness of the statement by providing a verbatim account of both the questions and the answers and the emotional presentation of the child. A general consensus document drafted in 1994 by a world gathering of professionals acknowledges agreement within the scientific community that videotaping all interviews with children is necessary to understand the adult behaviours toward the child and to provide the most reliable information possible (Lamb, 1994).

Because children's use of language is more context dependent and literal than that of adults, it is important to know what questions the child was asked and in what sequence. When interviewers rely on notes to reconstruct the question-answer process,

sometimes days or weeks afterwards, without the benefit of a taped record to produce the child's statement of evidence, the accuracy and completeness of that record of interview is questionable and important details may be omitted or misinterpreted (NSW Children's Evidence Taskforce, 1997). A videotaped disclosure reduces possibility of contamination or distortion of a child's memory which might result from repeated or inappropriate questioning (Bala, 1998; Eaton et al., 2001). A number of jurisdictions encourage submitting videotapes in court as a substitution for the child's testimony in court, but the child must still be cross examined (Eaton et al., 2001).

The recent implementation of Bill C-2, Clause 23 has amended Sections 715.1 and 715.2 of the *Criminal Code of Canada* to expand the circumstances under which a victim or other witness may be permitted to give evidence by way of a video recording, if it is made within a reasonable time after the alleged offence and the victim or witness adopts the contents of the recording, while testifying. At present, that option is available only for witnesses testifying in proceedings relating to an enumerated list of predominantly sexual offences who were under 18 years at the time of the alleged offence (Section 715.1), or who might have difficulty communicating evidence because of a mental or physical disability (Section 715.2) (Bill C-2, 2006).

Amendments to Section 715.1 make such a recording admissible in any criminal proceeding where the victim or witness is under the age of 18 years, "unless the presiding judge or justice is of the opinion that admission of the video recording in evidence would interfere with the proper administration of justice." Similarly, amendments to Section 715.2 make such a recording admissible in any proceeding where a witness might have difficulty communicating evidence because of a mental or physical disability. The amendments also adopt new terminology by substituting "video recording" for the existing reference to "videotape," and "victim" in the place of "complainant" (Bill C-2, 2006).

However, the videotape must still have been made within a reasonable time after the offence and the child witness must "adopt" the contents of the tape (Department of Justice Canada: Family, Children and Youth Section, 1999a). It also ensures that the judge or jury has access to the best evidence available to permit the evidence to be weighed and a just determination made. In *R. v. F. (C.)*, the Supreme Court (Judge Cory) offers specific direction to trial judges about the use of videotaped statements of child witnesses (Bala, 1998). Hoyano (2000) notes that in Canada and New Zealand, the Crown prosecutor has an unfettered choice as to how to use the videotaped interview as part of the child's examination "in chief". If the interview poses no evidential problems and fully discloses all the evidence that child has to offer, the prosecutor may elect to dispense with having the child testify in court.

The existence of a videotape at trial may also have the latent effect of prompting a guilty plea by the defendant, thereby eliminating the need for the child to appear as a witness in court at all (Landwirth, 1987; Perry & Wrightsman, 1991; McGough, 1994; Cashmore, 2002). Another important advantage to videotaping is that it preserves the child's statement and allows the fact-finder to see the child's age, appearance, and facial expressions at the time of the disclosure, often months or even years before the trial. The tape can also be used to refresh the child's memory for events that occurred some time earlier. Because there is some evidence that children forget more quickly than adults, a

visual record may be useful, particularly when children are too young to read their statement.

How defence lawyers react to this practice, and how children react to seeing themselves on tape some time after the event, needs to be examined empirically. Ultimately, a videotaped disclosure saves re-interviewing the child and reduces further trauma to the child from repeated interviews (Bala, 1998; Eaton, et al., 2001). Ceci and Bruck (1995) also note that videotaping provides an important incentive for investigators to carry out proper interviews because they know the tape will be scrutinized by the defence team; tapes can be useful in convincing non-offending family members that another family member did commit abuse and finally videotapes may encourage confessions on the part of the defendant.

Those who oppose the use of videotaping express concern that videotaping may allow the defence an opportunity to exaggerate inconsistencies in the children's statement or to use the videotapes to magnify and distort the existence of "poor" interviewing practices (Ceci & Bruck, 1995). McGough (2002) also cites that videotaping can be costly, children can feel that their privacy has been violated and that the tape can appear too "sterile" and unconvincing in court.

#### *Adjournments and Fast-tracking Cases*

Children and families often face significant delays due to unforeseen adjournments which can span many months, even years, in a child's life. Like the anticipation of testifying, the uncertainty and lack of resolution associated with a drawn-out legal case may exacerbate children's feelings of powerlessness as the case continues. Sas et al. (1993) argued that lengthy delays in the prosecution of child sexual abuse cases may be unbearable for children. Although a delay in resolution was not associated with increased distress in Goodman et al.'s sample (1992), Runyan and colleagues (1988) found that after five months, children whose cases were still unresolved showed the least improvement on measures of depression, regardless of whether they had testified, their age, or abuse characteristics. The waiting and lack of resolution in these cases appeared to have had an adverse effect on the children, more so than any individual aspect of the court proceedings.

Lengthy delays in retrieving a child's statements can stretch his or her recall memory and resistance to suggestibility to the breaking point. Delay intervals are not neutral periods of rest: they are filled with rich opportunities for distorted reconstruction not only through the internal mulling-over process but also through the suggestions of others (McGough, 1994). There have been examples of cases where a child was between two and four years at the time of the offences, but nine years at time of trial. Another child was 10 years at time of sexual assault and 12 years at trial, (*R. v. W. (R.)*, [1992] (Rauf, 1993).

In Britain (Hoyano, 2000), advocates are promoting that child abuse prosecutions be "fast tracked" as these routinely take longer to reach disposition than the national average for all types of offences. Thus, children continue to be caught up in the criminal justice system for prolonged periods, placing their welfare at risk, particularly if therapy is delayed pending the trial.

### *Facing the Accused: Screens and Closed Circuit Television*

Researchers have determined that the prospect of facing the accused in court is often a significant source of anxiety for child witnesses (Goodman et al., 1992; Lipovsky et al., 1991; Whitcomb, Shapiro & Stellwagen, 1985). Children who are required to confront the accused experience more stress than children who are not required to do so (Marsil et al., 2002). For some children this fear may interfere with the witness's ability to testify (Van Tongeren Harvey & Daun, 2001) and can have such consequences as inaccurate or incomplete testimony (Peters, 1991). The new Section 486.2.(1) allows the court in any proceedings to order that a witness who is under 18 years, or who may have difficulty communicating evidence by reason of a mental or physical disability, may testify from outside the courtroom or behind a screen, if the judge or justice considers it "necessary to obtain a full and candid account of the acts complained of." This section used to only pertain to sexual abuse offences. As was the case previously, the judge or justice makes that determination having regard to the age of the witness, the presence or absence of mental or physical disability, the nature of the offence, the nature of any relationship between the witness and the accused, and any other circumstances considered relevant (Bill C-2, 2006).

Proponents of the use of screens/shields believe that they are essential to minimize a frightened child's trauma (McGough, 1994). Some offenders will present themselves as sad, pathetic creatures and may cry in the courtroom. Some children will be terrified about seeing a defendant in a courtroom and will have great difficulty just entering the same room as this person. Some offenders attempt to terrify their victims into silence in a courtroom through innocuous expressions, gestures, smells or other nonverbal communication between the defendant and the victim/witness (Copen, 2000).

In Ontario, the Court of Appeal has stated that before an order can be given for a screen, the court must hear evidence capable of supporting the preliminary findings required by Section 486. Evidence that a witness does not want to see the accused is insufficient. The Manitoba Court of Appeal has gone even farther in suggesting that an order under Section 486 can only be granted upon hearing expert evidence as to need (Hutchinson, 2002).

Critics initially expressed concern that this section could interfere with the right of an accused to confront his or her accuser (McGough, 1994). However, the Supreme Court of Canada upheld its constitutionality stating that the goal of the criminal process is truth seeking and the evidence of all involved in the process must be given in a way most favourably to eliciting the truth (Department of Justice Canada: Family, Children and Youth Section, 1999b).

Even where testifying in front of the accused could be psychologically damaging, the witness is not entitled to testify behind a screen or by closed-circuit television if he or she is still capable of furnishing the court with a "full and candid" account of what occurred (Department of Justice Canada: Family, Children and Youth Section, 1999b). The practical application of this provision varies considerably across the country. In most locations, it is necessary to arrange for the space and equipment on a case-by-case basis, a logistical aspect of trial preparation that is both time consuming and expensive (Department of Justice Canada: Family, Children and Youth Section, 1999b).

In Britain, the most radical of the reform measures are those that attempt to shield the child victim from direct confrontation with the accused at court and the use of screens prevents eye contact (Morgan & Williams, 1993). The most striking finding, according to Goodman and colleagues concerned the children's negative attitudes toward facing the defendant. Several children stated that they could not look at the defendant because they were so frightened; other witnesses avoided eye contact with the defendant because they were angry (Perry & Wrightsman, 1991).

Bill C-15 also included provisions to facilitate testimony of children by permitting the use of closed circuit television (Bala, 1998). Courts in New South Wales, Australia utilize specially equipped closed-circuit "video link" rooms that have been set up so that when child witnesses testify, they see only the person who is speaking to them at any given time. The New South Wales legislation states that in any criminal proceeding in which it is alleged that the accused has committed a "personal assault offence" on a child under the age of 10 years, the child *shall* give evidence by means of closed-circuit television (Department of Justice Canada: Family, Children and Youth Section, 1999b). Hoyano (2000) notes that the prosecution cannot confidently predict whether the court will permit a child witness to use the special procedures – leave of the court must be sought. A nebulous "interests of justice" test governs whether the video link will be used in cross examination. Children commonly arrive in court not knowing whether they will be able to use it, making it difficult to adequately prepare them for the court process.

Davies and Noon (1991) observed 100 live-link trials involving 154 witnesses and compared their ratings to 89 children testifying in open court. Children using the live link were rated as "significantly less unhappy, more audible and more forthcoming" than children testifying in open court. This is particularly significant given that studies conducted by Goodman et al. (1992), as well as evaluations in England, Wales, Scotland and Australia, found a relationship between children's emotional state and their ability to testify.

#### *Facing the Court Audience: Closed Courtrooms*

Some research suggests that closing the court to any external observers reduces the negative emotions children might experience while testifying. For example, Goodman et al. (1992) found that children cried less when the courtroom was closed to spectators. Van Tongeren Harvey & Daun (2001) noted that the request for closed court usually comes from the child or parent but counsel also may be concerned if the courtroom is likely to be full of "voyeurs". The embarrassment can be exacerbated in small communities where the child may be known by the classmates.

In Canada, the new Section 486.1 of Bill C-2 of the *Criminal Code of Canada* allows the exclusion of the public for all cases, not just sexual abuse, when he/she finds that such an order would be in the interest of the "proper administration of justice" for witnesses under the age of 18 years (Bill C-2, 2006). However, the general rule is that any proceedings against an accused are to be held in open court unless the judge is of the opinion that it is in the interest of public morals, the maintenance of order or the proper administration of justice to remove the public from the courtroom. In other words, the judge has statutorily defined discretion to limit or eliminate public accessibility to criminal proceedings. In practice, this order is rarely granted (Hutchinson, 2002).

In the US, the Supreme Court held that the First Amendment permits closure of the courtroom in a child sexual abuse criminal case during the child's testimony, but only on a case by case basis if the state can demonstrate that a particular child would be traumatized (Briere et al., 1996).

### *Structural Adaptations and Specialized Courts*

One means for making the court process less stressful is to arrange the court's physical layout so it is less intimidating to child witnesses. Some jurisdictions have statutory suggestions that address this. The California Legislature, for example, enacted a statute that provides that "in the judge's discretion the judge, witnesses, support persons, and court personnel may be relocated within the courtroom to facilitate a more comfortable and personal environment for the child witness" (Perry & Wrightsman, 1991). Under this provision, the court may seat the parties and their attorneys, the judge, and the child around a table, rather than isolating the child on the witness stand.

According to Ursel and Gorkoff (2001), to provide a "suitable atmosphere" a judge should take into account the perspective of the child including such factors as whether the child needs a booster seat or microphone, a drink of water, or a bathroom break. Consideration needs to be given to the child's attention span. Bala & McCormack (1994) advocates for children to have access to an appropriate waiting room separate from the accused, and that the child should be able to enter and leave the court without seeing the accused. In Massachusetts, judges bring in pint-size witness chairs so youngsters' feet won't dangle. In Maryland, children who have trouble speaking may draw what happened. In Minnesota, a child frozen with fear was permitted to testify from under the prosecutor's table.

Some jurisdictions have developed courts that deal specifically with issues related to crimes against children and crime within the family. In September 1990, a specialized family violence court was introduced in Winnipeg, Manitoba (Ursel & Gorkoff, 2001). The implementation of the Family Violence Court was an institutional recognition of the special needs of victims who are in "a relationship of trust/dependency and/or kinship" with their alleged offenders. Because it is presumed that all children are in a relationship of trust/dependency with all adults, all child abuse prosecutions in which the accused is an adult come to this court. Between 1990 and 1997 of 23,009 family violence cases, 10% were child abuse cases. In Winnipeg, about 1/3 or less of the reported child abuse cases proceed through the courts. The majority are dealt with through child welfare.

### *Fear and Anxiety: Supporting Child Witnesses*

It is widely recognized among professionals that the provision of support before and during trial itself is important. Long delays before the trial and lack of knowledge about the legal process are likely to cause children anxiety and apprehension. Addressing children's stress during the pre-trial period is significant because prosecutors may decide whether to proceed with a case on the basis of the child's emotional fitness to testify (Flin, 1990).

Although providing support both before and during the trial has been advocated, no one inside or outside the criminal justice system has a clear responsibility to provide information about the court process to child victims and their families, to liaise with

others about the child's needs, to assist the child required to give evidence, to support the child in court, and to explain the court verdict. Support, where offered, is often marred by a lack of continuity or by the inexperience of those providing it (Morgan & Zedner, 1992). Plotnikoff and Woolfson (2002) point out that judges have discretion about whether a supporter may accompany children giving evidence.

Researchers indicate that children not only derive emotional support from the presence of a supporter whom they trust, but the consequent reduction in anxiety may improve the accuracy of their evidence (Moston & Engelberg, 1992; Goodman et al., 1992). It has been noted that when a parent or loved one was permitted to stay in the courtroom with them in criminal court, children were better able to answer questions and looked less frightened. However, Van Tongeren Harvey & Daun (2001) cautions that support persons must be trained to avoid coaching the child in any way and are usually warned by the judge to have no communication with the child whatsoever.

Support for children can take a variety of forms. If a proper legal record is made, a child may be permitted to testify while sitting on the lap of a support person (e.g.: *State v Johnson*, 1986, *State v Menzies*, 1992). Britain has a "Guardian ad litem" (GAL) for civil proceedings to safeguard and protect the welfare of the child but not in criminal court (Morgan & Williams, 1993). GALs are typically appointed early in the proceedings and are charged with playing a full and active role in advising the court on case management issues in addition to the representing the interests of the child and advising the courts from a social work perspective. They have a proactive role with regard to the conduct of proceedings, including timetabling and offering advice to the court on the range of orders available. They are seen as an independent voice for the child.

In the US, active Victim Assistance Programs aim to provide support and comfort to child victims throughout the adjudication process. In the US, appointing GALs for child victims in criminal proceedings is gaining acceptance. It is, however, recognized that the role of the GAL in criminal proceedings must be carefully circumscribed and the guardian must possess special skills and knowledge related to the criminal process. While there are differences in the role of GALs throughout the US, the GAL invariably has the power and duty to communicate directly to the court rather than to or through a particular party. However, a victim advocate employed by the prosecutor or who does not directly address the court in the course of the litigation is not, by definition, a GAL (Morgan & Williams, 1993).

Child advocacy groups place high expectations on the use of intermediaries as the solution for very young witnesses, arguing that they should never face direct questioning by counsel (Hoyano, 2000). The Pigot committee proposed that the judge should be able to make special arrangements for examination of very young or very disturbed children, to allow questions from counsel to be relayed through a child care professional or other person who enjoys the child's confidence. Nothing in the legislation hints at whether an intermediary must have some form of formal qualifications or be examined by the trial judge for suitability, nor whether the intermediary must be completely independent of the witness and disinterested in the proceedings. Western Australian law permits the use of a "child communicator" to explain questions to the child and to clarify the child's answers to the court. However, eight years after the statute came into force, child communicators have yet to become an established feature in court.

In Canada, new Section 486.1 of Bill C-2 allows the courts to permit witnesses under 14 years (not just 18 years), or those with a mental or physical disability, to be accompanied by a support person while testifying for all cases, not just sexual abuse cases. In making that determination, the court would be directed to take into account the age of the witness, the presence or absence of mental or physical disability, the nature of the offence, the nature of any relationship between the witness and the accused, and any other circumstances considered relevant (Bill C-2, 2006).

Some are concerned that supporting a child compromises the accused. Such an argument assumes that protecting the accused and providing support for the child witness will necessarily conflict. This need not be the case if an appropriate type of support is provided for the child. In addition, care must be taken to make sure that the court record reflects that more traditional means of taking testimony were unsuccessful (Lipovsky & Stern, 1997). The interests of justice require that the best available evidence is presented to the court. The interests of justice cannot be served by a system that disadvantages children in the presenting of their evidence.

Both community and justice service providers remark that when abuse occurs within a family, family members will often support the offender rather than the child. In this situation, support for the child must come from the community, extended family, or victim services and community service agencies (Clarke, 1996a).

#### *Exposure of Personal Information: Publication Bans*

Children often possess considerable shame about having been abused, particularly if it is sexual abuse. That shame has an effect on the thoroughness of the child's description of the abuse and their readiness to describe it in or out of court (Van Tongeren Harvey & Daun, 2001). Fear of further public exposure in the media is a real concern of many children and their families and may seriously hamper a child's testimony if a publication ban is not sought.

The objective of the publication legislation has been to encourage victims of sexual assault to come forward with their complaint without fear of their name being published in the media. Trial court does not have the jurisdiction to order a non-publication ban to protect the identity of the accused unless the name of the accused is the same as that of the complainants. These applications are usually made by the Crown (Van Tongeren Harvey & Daun, 2001).

Bill C-2, Clause 13 amends Section 276.3 to make it an offence to "publish in any document, or broadcast or transmit in any way," (no longer just the newspaper or a broadcast) the contents of an application, or any evidence taken, at a hearing to determine the admissibility of evidence respecting a complainant's sexual history during the trial of specified sexual offences. This ban includes any electronic transmission or use of the Internet (Bill C-2, 2006).

Clause 14 makes similar amendments to Section 278.9(1), concerning applications for the production of a complainant's personal records during the trial of a sexual offence. The new wording makes clear that the prohibitions are intended to apply to all forms of electronic dissemination, including Internet transmission.

New Section 486.4(1) amends existing provisions that allow the courts to prohibit the publication of identifying information about a complainant or witnesses in proceedings relating to a list of mostly sexual offences. The amendment adds Section 162 (voyeurism), Section 163.1 (child pornography) and Section 172.1 (luring a child) to the list of those offences for which such an order can be made. In addition, new Section 486.4(3) mandates such an order for the benefit of a witness under 18, as well as any person who is the subject of a representation, written material or a recording that constitutes child pornography, in proceedings relating to such an offence. As with previously described amendments, the new provisions make clear that such information is not to be published, broadcast, or “transmitted” in any way (Bill C-2, 2006).

As is now possible under Section 486.4(1), new Section 486.5(1) retains the courts’ authority to prohibit the publication of identifying information respecting a victim or witness in any proceeding, upon application by a victim, witness, or the prosecutor, where the order is “necessary for the proper administration of justice.” Similar protection is continued under Section 486.5(2) for the benefit of a “justice system participant” involved in proceedings related to specifically enumerated offences (Bill C-2, 2006).

## **Summary**

In 1999 in England and Wales, a supplementary pre-trial checklist for all cases involving young witnesses was introduced to all Crown Court Centres (Esam, 2002). The objectives of the checklist are to improve the experience of children who are required to come to court as witnesses; recognize the specific needs and requirements that children have in this environment; set a minimum national standard for courts in preparing young witnesses to give evidence in criminal trials and to enable the trial to proceed smoothly by giving early attention to the matters raised. Such checklists remind court personnel of the need for considering the special need of children and youth when they testify.

Recommended changes in judicial procedures are designed to improve children’s performance as witnesses and minimize potential negative court related effects on the children (American Bar Association, 1985). The goal of these legal reforms is to elicit the most accurate information from children in the least stressful manner. As noted, research with respect to child witnesses support the utility of several practices that should reduce the distress of children and families as they interact with the legal system (Lipovsky, 1994; Sas et al., 1991; Saywitz & Goodman, 1996).

The increasing number of children involved in the judicial system and the fact that many children experience significant trauma when testifying support the use of specialized services and strategies to meet the unique needs of young witnesses (Goodman et al., 1999; Child Witness Project, 2002).

## **Chapter Two: The Impact of Testifying and Court Preparation Programs**

The previous chapter outlined the major issues for the justice system, when the key witness is a child, and identified a number of strategies to facilitate children providing accurate testimony. The current chapter documents the considerable emotional challenges for children and their families when a child has been abused and is subsequently required to testify. It describes court preparation programs as one strategy to assist children, and what we know with respect to whether such programs are helpful. The chapter ends with a description of the Calgary Child Witness Court Preparation Program, and the methodology for the current research.

### **The Impact of Testifying on Children and Families**

Family problems can be expected when the defendant is known and loved. The child may experience increased stress when the perpetrator is a family member, as that person may have been someone the child once looked to for support and validation (Sas & Cunningham, 1995). Further, if a child is a victim of a crime in which the perpetrator is related by blood or marriage, or in which the perpetrator is a close friend of the family, a clash may occur, causing previously friendly relationships to become bitter and even hostile. A hostile environment is very difficult for a child because he/she cannot move away from the problematic environment or understand the situation (Copen, 2000).

Based on research that suggests a link between reduced stress in a child witness and maternal support (Goodman et al., 1992; Whitcomb et al., 1994), early efforts should be made within the legal system to encourage that support system. The identity of the abuser is a key factor in determining maternal response. Mothers of victims abused by a family member may have more difficulty believing the allegations, giving emotional support, using professional services to assist the child, and acting in a protective way.

Of 193 cases studied by Sirles and Franke (1989), 78% of mothers believed their children and 22% did not. The three most influential variables were the relationship of the offender to the mother, the nature of the abuse and the mother's location during the abuse. In addition, younger children are more likely to be believed than older children in part because it is assumed that they would not be falsifying accounts (Sas et al., 1993). In Sas and colleagues' article "Three Years after the Verdict" (1993) 62% of the children reported that their mothers believed them. One of the issues that emerged, however, is that supportive mothers whose children experienced marked emotional and behavioural changes need counselling in order to maximize their abilities to provide help for their children. When maternal support is lacking, professionals should endeavour to develop an alternative support system to support the child.

Researchers have examined two major outcomes with respect to children's disclosure to their non-abusive mothers: the emotional functioning of mothers following the disclosure and whether or not mothers are supportive of their children. Ursel and Gorkoff (2001) note that the concept of coping has been useful in understanding the adjustment of mothers dealing with various challenges. Given its demonstrated usefulness, these authors believe it to be reasonable to use a stress-coping framework to explore a mother's reactions to a disclosure of sexual abuse. The ways in which she responds to these demands (the coping responses that she makes) will be influenced by a variety of factors and will affect the outcome (her emotional adjustment). This stress-

coping framework encourages the identification of factors that can account for differences in outcome. These factors can exist at the level of the individual, the family, the community and the society.

Families with a child who has been sexually abused are thought to have certain characteristics. Researchers commonly report that families of both incest and non-incest sexual abuse victims are less cohesive, more disorganized and generally more dysfunctional than families of non-abused individuals (Elliot, 1994; Harter, Alexander & Neimeyer, 1988; Hoagwood & Stewart, 1989; Madonna, Van Scoyk & Jones, 1991). Problems in family functioning most often identified in incest cases are ineffective communication, a lack of emotional closeness and flexibility, and social isolation (Dadds, Smith, Weber & Robinson, 1991). These, however, may be as a result of the abuse, rather than necessarily seen as preceding the abuse.

Family dysfunction impacts the resiliency of children dealing with the impact of sexual abuse. Some serious symptoms or behaviours in children who are trying to survive in non-supportive or hostile environments include depression, withdrawal, suicide attempts, running away, eating and sleeping disturbances and recantation (Sorenson & Snow, 1991). Court educators (facilitators) need to be aware of these family dynamics in order to try to help parents lessen the negative impact on their child before problems become destructive, solidified and unmanageable (Copen, 2000).

Researchers suggest a number of factors associated with a greater negative impact of court on children, such as high levels of pre-court distress (Whitcomb et al., 1994), lack of maternal support, testifying multiple times and lack of corroborating evidence (Goodman et al., 1992). Overall, the research suggests that children who are believed and supported fare better (Sas & Cunningham, 1995; Conte & Schuerman, 1987). Extended family, friends, and foster parents are among those who may be able to provide support for the child through legal proceedings, although the extent to which such support can offset a lack of maternal supports is as yet unclear.

Researchers suggest that some children are adversely affected by their involvement with the legal system (Goodman et al., 1999; Mahoney, 1999; Sas et al., 1999). The legal process which often includes multiple pre-court interviews and testimonies, numerous adjournments and lengthy delays, testifying in an open courtroom and/or in the presence of the accused, and harsh and confusing cross-examination by defence lawyers, makes it very stressful for child witnesses (Olivier, 1996; Sas et al., 1991; Goodman et al., 1999).

Because of excessive fear and trepidation regarding the court process and possible outcomes, it is not surprising that many children refuse to attend court (Olivier, 1996)). Unprepared children who testify in court may provide inadequate testimony because they are intimidated, embarrassed, do not understand the court process and terminology, or become confused during cross-examination (Olivier, 1996)). Problems can arise when children are not able to clearly articulate their recollections of events or give complete and accurate testimony in court. Because of the lack of accurate and complete testimony, the courts' ability to discover the truth is jeopardized, which may lead to greater difficulty in convicting an offender (Department of Justice Canada: Family, Children and Youth Section, 1999b). Finally, many children lack the emotional support needed to get through

such difficult experiences, especially those who are testifying against an offending family member.

Legal professionals need to be aware that a certain subset of children who testify may be particularly vulnerable witnesses. Research indicates that such factors as lack of maternal support, the need to testify multiple times, harsh cross-examination, victim age, and fear of the defendant should be considered in predictions that children may suffer stress from the legal process itself (Goodman, et al., 1992).

Some legal scholars (Dziech & Schudson, 1989) those studying children's cognitive development (Saywitz, 1989) and mental health professionals (Schetky, 1988) have noted that the court environment may increase children's levels of distress and decrease their ability to provide accurate testimony.

In the research conducted by the Child Witness Project in London Ontario (Sas et al., 1991), staff were saddened by the great emotional pain and behavioural sequelae that many sexually victimized children experienced in reaction to the abuse. Sas et al., (1991) cited a number of studies that concluded that the overall court process can lead to secondary victimization in children (Avery, 1983; Runyan et al., 1988; Weiss & Berg, 1982 and Goodman, 1992). Melton (1984) notes that the potential traumatization of the child witness can be as follows: The victim often must describe, and in a sense relive, the traumatic event repeatedly, and defence counsel may suggest that the victim stimulated or participated in the offence.

Pynoos and Eth (1984) describe some typical emotional patterns for children who testify in court. Prompt arrests can alleviate the initial fear, while trial postponement may result in prolonged anxiety. The emotional fallout of the legal process may be heightened by the requirement to testify in open court: the victim may feel on display as he or she is forced to recall painful memories, defend against suggestions of having stimulated the offence and confront the defendant. This sense of public humiliation may be exacerbated by the presence of the press in the courtroom and the spectre of future publicity. System stressors combined with the emotional symptoms related to the abuse itself can result in a high level of stress in children, a factor which can negatively affect their ability to provide competent and compelling evidence in a court of law.

A study by the London Child Witness Court Project (Sas et al., 1991) found that 9% continued to harbour regrets about their involvement in the court process. The majority of the children (82%) described the experience of testifying in negative terms while 15% mentioned both good and bad features. Cases involving female complainants were less well served in the system: the victims were more likely to have suffered long term abuse, received less support, were more likely to have had a negative court outcome and, if their cases did end in conviction, a lesser sentence was handed down to the offenders (Sas & Cunningham, 1995).

With respect to long term emotional effects on children, testifying in court may have the most negative emotional effects on children in the short term and may diminish several years after legal involvement (Sas et al., 1993; Goodman et al., 1992).

A number of studies indicate that, although court involvement can be stressful, children typically are not emotionally scarred by their participation as witnesses in

criminal trials (Flin, Bull, Boon & Knox, 1992; Goodman et al., 1992). Consistent with the hypothesis that the anticipation of testifying may be more stressful than testifying itself, Goodman et al. (1992) reported that although many children expressed strong fears about testifying, after their testimony they felt better about the experience than they had expected. In addition, analysis of child witness's ability to communicate showed that while ability to communicate was lowest during the oath/communication stage, it was highest during examination in chief, and intermediate during the cross-examination (Fischer et al., 1992).

It is important to acknowledge the literature on resilience, as there can be a tendency to focus only on children's negative life experiences. Resilience refers to good adaptation in a context of risk (Masten, 2005). She further indicates that resilience is comprised of two dimensions: one, that the child has been exposed to at least one adverse event and two, that the individual's outcome was positive despite the adversity. Children are not born with resilient tendencies but rather the positive outcomes associated with resilience can be attributed to protective factors at work in the environment such as adult mentors, cultures and belief systems (Legault & Moffat, 2005). Three waves of resilience research has ensued (Wright & Masten, 2005) with the first wave focusing on the identification of key components of resilience, risks and adversities, the second wave focusing on how systems and processes are involved in naturally occurring resilience and the third wave addressing intervention questions with respect to creating or promoting resilience through practice and policy.

Some children find the process of testifying empowering and wish to be active participants in the process (Berliner & Barbieri, 1984; Goodman et al., 1992). Some have complained, when the offender pleads guilty, that they did not have an opportunity to be heard in court. Having their voices heard can also be a positive and healing experience for children (Copen, 2000). Some children view testifying as an opportunity to confront the offender. The child may not fear that confrontation but may take strength in it. Therefore, a child should be permitted to have input as to his or her involvement in the court process (Lipovsky & Stern, 1997). This active taking of control fits with the work of Snyder et al. (2002) who refer to "pathways thinking" as the act of taking feasible routes to goals. They connect "pathways thinking" to hope, which is considered to be the platform for resilience (Dumoulin & Flynn, 2005).

Hornick and Bolitho (1992) reported that children observed in courts in Edmonton, Calgary, Saskatchewan and Hamilton exhibited a relatively positive response to the experience of testifying, suggesting that they were coping reasonably well under very difficult circumstances. Berliner and Barbieri (1984) note that testifying in court can have a therapeutic effect for the child victim, particularly for young children. It is equally plausible that children's responses are less severe on average than those of adults. Provided that parents and others do not overreact and are supportive of the child during the legal process, the trial experience may cause little trauma. At least for some child victims, the experience may be cathartic: it provides an opportunity to take control of the situation, achieve vindication, and symbolically put an end to the episode (Melton, 1984b). The child can also learn that social institutions take children seriously.

In the London Child Witness Court Project study (Sas et al. 1991), 85% of the children were glad the case had gone to court and had no regrets about it. Ninety-one

percent would advise a friend to call police under similar circumstances, but only 84% would do so again themselves.

Preliminary analyses from a follow-study being conducted by Goodman on 200 child sexual abuse victims indicates that 12 to 14 years after legal involvement, “testifiers” and “non-testifiers” do not significantly differ on measures of mental health (Quas, Redlich, Goodman, Ghetti & Alexander, 1999).

### **Court Preparation Programs**

The increasing number of children involved in the judicial system and the fact that many children experience significant trauma when testifying requires that specialized services be implemented to meet the unique needs of child witnesses (Goodman et al., 1999; Child Witness Project, 2002).

All witnesses, including adult fact witnesses, expert witnesses and child witnesses, should be prepared for testifying (Lipovsky & Stern, 1997). However, to bring a child into a complex, potentially stressful experience without preparing the child for what to expect would be unthinkable. Indeed, the more preparation the child witness can be given the better (Perry & Wrightsman, 1991; Saywitz & Snyder, 1993). Harvey and Watson-Russell (1988) are among others that advocate careful pre-court preparation of children by skilled adults familiar with the criminal justice process. Adequate preparation of a child for his or her court appearance, sensitivity to children’s developmental needs and interdisciplinary collaboration are likely to be sufficient in many cases to reduce system-induced stress and increase a witness’s ability to provide credible testimony (Lipovsky & Stern, 1997).

The main purpose of child witness court preparation programs is to assist child victims and witnesses to testify effectively in court (Olivier, 1996). Preparation involves familiarizing a child with what will occur during court proceedings and helping him or her to be ready for the experience emotionally, physically and mentally. It does NOT involve telling a child what to say. The primary component of court preparation is educational (Lipovsky & Stern, 1997).

Although court preparation programs may differ somewhat in content, techniques, and implementation, most involve reducing children’s fears and apprehensions about the court process and possible outcomes; educating children about court procedures and the roles of courtroom personnel; and helping children to articulate their experience to the best of their abilities in the courtroom (Olivier, 1996; Child Witness Project, 2002).

Esam (2002) notes that the key components for a court preparation program include assessing the child’s needs in relation to a court appearance; helping children to understand the court process and their role in it; taking the child to visit the courtroom before the trial, providing the child with stress reduction and anxiety management techniques and involving the child’s parent or caregiver. Role-playing and enactment of court-related interactions both familiarize a child with procedures and allow a child to practice his or her role before entering the courtroom (Lipovsky & Stern, 1997). Practicing his/her role is theoretically consistent with exposure-based treatment approaches for reducing anxiety (Deblinger, McLeer & Henry, 1990).

In addition to familiarizing the child about the court environment and process, some researchers advocate to include questioning training for children in court preparation programs (Saywitz & Goodman, 1996). Programs that focus on courtroom language may be helpful because evidence suggests that courtroom language may be particularly challenging for child witnesses (Carter, Bottoms, & Levine, 1996; Perry McAuliff, Tam, Claycomb, Dostal & Flanagan, 1995; Saywitz & Snyder, 1993).

Because children can also have difficulty comprehending what is being asked of them, especially in an unfamiliar courtroom context, Saywitz (1995) recommends that court preparation programs also include comprehension training which involves encouraging children to ask for clarification when they are confused. This is important to do given that legal professionals often use very complex language (Danet, 1980, Perry et al., 1995; Walker 1999). Findings from naturalistic studies suggest that young children spontaneously ask for clarification, particularly when in familiar contexts and environments (Revelle, Wellman & Karabenick, 1985). It is feasible to test child witnesses in several legally relevant domains such as legal knowledge, comprehension of complex language and resistance to suggestibility.

### **Evaluations of Court Preparation Programs**

A website search revealed that, while there are many court preparation programs operating throughout North America, it is unclear how many have been evaluated to determine their impact on children and court outcomes. Two programs have recently conducted evaluations, both of which are unpublished research reports: the Child Witness Project operated by the Centre for Children and Families in the Justice System of the London Family Court Clinic and the Child Victim Witness Program operated through the Victims' Services Division of the Nova Scotia Department of Justice.

#### *Child Witness Project – Centre for Children and Families in the Justice System*

The Child Witness Project in London, Ontario was created in 1987. It was initially a demonstration project but has since become an internationally respected program. Since it began, the program has provided services to over one thousand children.

The program serves children under the age of 18 years who are victims of sexual and physical assault. The program is comprised of two major components: an educative component that teaches child victims about court procedures and etiquette, oath taking, and legal terminology, and a stress reduction component that teaches children to reduce their anxiety through the use of cognitive restructuring, relaxation, and breathing exercises. Court preparation is individualized to meet the unique needs of each child victim/witness. Most preparation ranges from three to eight sessions.

Program staff have thus far conducted three internal evaluations to determine the program's impact on child victims/witnesses and the courts' handling of cases (Child Witness Project, 1991; Child Witness Project, 1993). The latest internal evaluation in 2002 reporting that within a one-year period (2001-2002), over 500 children were referred to the project and 200<sup>1</sup> actually received court preparation services. The average age of the program client was 13 years. A large percentage of cases involved peer-to-peer

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<sup>1</sup> Court preparation was not needed in cases where there was an early guilty plea.

assault cases (45%) and the majority of referrals (72%) involved cases in which the victims and offenders were unrelated to one another. Biological parents were the abusers in 16% of the cases, strangers in 11% of cases, and lastly, adult acquaintances accounted for 8% of the abusers. Almost all of the referrals (91%) came from the local police service.

Interestingly, the program currently receives more referrals for physically abused children than for sexually abused children. This is a dramatic change since the program initially began in the late 1980's, when sexual offences seem to predominate. The evaluators suggest that the change may be due to a possible decline in the number of reported sexual abuse cases in North America. In sexual abuse cases, the victims were more likely to be female (78%) than male (22%). The opposite was true for the physical abuse cases – males (55%) were more likely to be victims than females (45%). Due to the recent development of a Domestic Violence Court in the community, the program has received an increasing number of referrals for children who have been exposed to domestic violence. The program has prepared children in eleven domestic violence cases. The gender breakdown was not provided for domestic violence victims/witnesses. Overall, the program serves slightly more girls (59%) than boys (41%).

The Child Witness Project also tracks court outcomes to identify and monitor patterns in court dispositions. The evaluators reported that for the past five years the percentage of guilty pleas rose steadily, while the number of guilty findings and acquittals have both decreased. The evaluation also noted that the most common disposition for offenders was probation. They attribute this finding to the age of the offenders (i.e. a large number were young offenders) and the less serious nature of the offences (i.e. summary conviction offences).

#### *Child Victim Witness Program – Nova Scotia Department of Justice*

An evaluation in Nova Scotia (Nova Scotia Department of Justice Victims' Services Division, 2000) examined the data compiled by the Child Victim Witness Program (CVWP) since it began in 1994. The study examined client data collected between 1994 and 1999, interviews with parents and guardians of children involved in cases closed between 1998 and 1999, interviews with the Support Workers who provided service between 1994 and 1999, as well as information from Victim's Services, the Crown, and the Nova Scotia Department of Justice.

The mandate of the CVWP is to provide court preparation services to children under the age of 16 years who are the direct victims of crime and/or who have witnessed the victimization of another person. The primary objectives of the CVWP are to increase the child's knowledge of court procedures and the role of court personnel, address the child's fears and reduce the anxiety that is associated with testifying, help build the communication skills necessary for effective testimony and acquaint the child with questions associated with cross-examination, and offer emotional support to the child and family. Components of the program include a courtroom tour, court accompaniment, meeting with Crown prosecutors, victim impact statement preparation, and debriefing.

The study described the demographics of the 1,682 child victim cases that were referred to the Victims' Services Division from 1993-1999. During that time period, the

program received twice as many referrals for female victims. Girls were almost two times more likely to be victims of sexual assault than boys, while boys were much more likely than girls to be victims of physical assault. In terms of age, adolescents represented the largest group of program clients with over half of the children falling between the ages of 12-15 years of age. The mean age of children was 12.6<sup>2</sup> years of age.

Most of the children referred to the program were victims of a criminal offence (84%) as opposed to witnessing crimes only (16%). Crown prosecutors made up the largest referral source with more than one quarter of the referrals made by the Crown. Slightly more than 25% of referrals came directly from the police or from police victim assistance units. Referrals from parents, community-based support programs, child welfare and court-related programs made up the other referrals.

The study primarily examined sexual and physical offences committed against children, but noted “other” offences, such as theft, robbery, uttering threats, and criminal harassment. The actual number of offences was not available in the study but the study suggests that sexual offences were the most prevalent form of offence. The Nova Scotia study also examined the client/accused relationship, finding that over 80% of the children knew the accused. Forty-two percent of the children were victimized by a family member, 20% by a trusted adult, and 19% by a peer. Girls were slightly more likely to have been abused by a family member or a peer than boys, while boys were slightly more likely than girls to have been victimized by a trusted adult or a stranger.

The evaluators also examined court processes and outcomes for 453 cases that were referred between April 1, 1998 and June 30, 1999. Of these, 251 children participated in the program’s court preparation services. The average length of involvement in the criminal justice system (from arraignment to final disposition) was 9.3 months. Just over half of the children involved in the program testified in court; most only testified once. Over half of the cases resulted in a finding of guilt, either through a guilty plea or conviction. A large proportion of the guilty pleas were entered after it was apparent that the child was prepared to give evidence in court. In fact, in some of these cases, the guilty plea was entered on the day of trial.

More physical offences than sexual offence cases resulted in a finding of guilt. Also, extrafamilial cases were more likely to result in a finding of guilt (either through a guilty plea or conviction) compared to intrafamilial cases. Nearly one quarter of the cases were stayed, withdrawn, or dismissed. Unfortunately, the reasons why charges did not proceed were not available. Twenty-two percent of offenders were acquitted. Convictions resulted in just over half of the cases where a verdict was obtained at trial and were slightly more likely for boys than for girls.

Probation was the most common form of offender disposition and was ordered more in cases involving females. Incarceration was ordered in one quarter of the cases. The perpetrators of offences against female children were more likely to receive custodial sentences. Custody was also more likely in cases of intrafamilial abuse rather than extrafamilial abuse; and in sexual offences, rather than in physical abuse cases. The average length of sentencing was longer for boys (19.5 months) compared to girls (16.2

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<sup>2</sup> The mean age fell to 11.6 years of age when the age of eligibility in the program was reduced to 16 years.

months). Also, sentences were longer for sexual offences (22.6 months) than for physical offences (4.9 months); and were longer when the offender was a member of the family (26.4 months) rather than a non-family member (5.4 months).

Of the children who were actually given court preparation services, children between the ages 12-15 years were more likely to testify. Two thirds of the children who testified were female. Girls were much more likely to testify in sexual offence hearings than they were in physical offence hearings. On the contrary, the study found that boys were more likely to testify in physical offence cases than in sexual offence cases. Male and female court preparation clients were more likely to testify in cases involving extrafamilial offenders than in cases involving intrafamilial offenders.

More than half of the cases in which children testified resulted in a finding of guilt, either through a guilty plea or conviction. The study found no differences in gender and in type of offence (sexual or physical) in terms of court outcomes. However, convictions resulted more often in cases involving extrafamilial offenders than in cases involving intrafamilial offenders. In terms of dispositions, the study notes that offenders were only slightly more likely to be committed to custody when the child testified. Notably though, the sentence was longer if a child testified (31.3 months) versus if the child did not testify (7.5 months).

The study also noted that because of the lengthy delays in the court process and that some offenders do not plead guilty until the time of court (some actually entered a guilty plea on the day of trial), children who do not testify still experience significant anxiety and stress due to the prospect of testifying. In fact, 42% of all guilty pleas were entered after the children had been prepared to testify.

### **The Calgary Child Witness Court Preparation Program**

The Calgary Child Witness Court Preparation Program (CCWCPP) is operated by The Canadian Society for the Investigation of Child Abuse. The program is committed to reducing the trauma to child witnesses and their families and facilitating justice by preparing children to testify to the best of their abilities in court. This is achieved by: providing education and support to child witnesses and their families through court preparation services; consulting with criminal justice professionals involved with child witnesses; heightening community awareness to the issues of children testifying in court; identifying and responding to the needs of child witnesses and families through research, development and training.

Since its inception as a program in January 1992 to the year 2003, the Calgary Child Witness Court Preparation Program received 2129 documented referrals and prepared 785 victims and witnesses in the Calgary region for court. These children were expected to testify as victims or witnesses in such court cases as those involving child sexual abuse, child physical abuse, domestic violence, and homicides.

The court process can be very frightening for adults, let alone young children. The prospect of telling their circumstances in a courtroom full of adult strangers, and especially facing the offender, is very challenging for children. The Calgary Child Witness Court Preparation Program does not allow children to discuss what happened to them, since this would affect their testimony; but does help to demystify the courtroom

and the court process for these child victims. This helps the children feel less fearful, less alone, less intimidated, and more confident in the very adult environment of the courtroom.

The Court preparation facilitators are professional, experienced child welfare workers who volunteer their time to ensure that victimized children are not further traumatized by their court experiences. The Program director and consultants for the program are experts in the field of child abuse with many years of experience.

The structured curriculum was developed by the Calgary Child Witness Court Preparation Program to guide facilitators through an accountable and standardized manner of preparing children. The primary mode of service delivery is through the provision of six week groups which are offered once per week for 1-1/2 hours.

Session One provides the opportunity for the parents to discuss any concerns about their child having to testify in court. This session is co-facilitated by a lawyer and Court preparation facilitator. Parents receive information about the court environment and court process, suggestions about what NOT to do while waiting for the case to go to trial, tips on how to best support their children emotionally in court and information about what their children will learn in the Court Preparation Program. A police officer from Victim Services also presents on Victim Impact Statements.

Session Two is for the children only and focuses on discussing and alleviating their fears of court and the court process, while being cautioned not to discuss any individual information about their respective offences.

Session Three encourages the children to identify how their bodies show stress and are provided with simple relaxation exercises to try. Using a variety of strategies such as puppets, play, crafts and worksheets, the children learn the roles of each person in the courtroom.

Session Four focuses on teaching children about appropriate behaviour in the courtroom and what they should expect of the court process. They learn about such concepts as adjournments, preliminary inquiries, trials and other terminology specific to the court environment.

Session Five consists of a mock court and the opportunity to role-play. In a large group environment, which includes parents and facilitators, children practice testifying and being cross-examined on a routine topic such as what they had for breakfast or what they remember about their last birthday. The selection of a neutral topic ensures that there will be no contamination of evidence and the presence of many unfamiliar people adds a realistic element of stress to the experience.

Session Six is comprised of the tour of a courtroom and a “graduation” ceremony for Court Preparation Program participants. This session takes place in the actual courthouse so that the children can experience the court environment first hand. The court clerks provide a detailed tour to the children, even allowing them to sit in the judge’s chair. At the end of the session, children review the fears they initially identified in the first session and discuss which ones are resolved and which ones remain. They are presented with a Certificate of Participation and a friendship bracelet which they are encouraged to wear to court to remind them of all that they have learned.

Although none of the children in the program know *why* any of the other children are going to court, the group setting helps them feel some solidarity – they are not alone.

Sometimes children are referred late to the program, or for some reason cannot attend the six-week group sessions. These children are given individual court preparation. Due to adjournments, many of the children in the program do not go to court trials for months, or even a year or two after attending court preparation services or testifying at preliminary hearings. Because of this, in 1994, monthly, three - hour booster sessions were created in order to provide expedited court preparation refresher sessions. Individual sessions are also provided when the circumstances warrant it such as in the case of a special needs child or a child who has been traumatized to the extent that he/she is unable to participate in a group format.

Although this program is provided in a very professional manner, costs are kept to a minimum. The primary funding is by Alberta Solicitor General and Public Security, Victims Programs, in conjunction with contributions made by private corporations. Generous “in-kind” donations help save the program thousands of dollars in expenses, and include: materials for the children; the valuable time of professional speakers; and all the needed facilities for running the court preparation groups including office space, storage space, and courtrooms for tours. Court preparation facilitators receive honoraria; however, these token amounts hardly compensate these dedicated volunteers for the extensive time they spend in training, preparation, facilitating court preparation groups, and follow-up.

Since its inception, the Calgary Child Witness Court Preparation Program has been one of the few formalized, structured, and accountable programs of its kind in Canada. The innovative local Calgary program was the catalyst for the inclusion of court preparation for all child victims in Alberta in the Action Plan of the Minister of Alberta Family & Social Services. Alberta Solicitor General and Public Security, Victims Programs is collaborating on several court preparation programs for child victims in different regions of Alberta, using Calgary’s program as a model. The Child Witness Court Preparation Program works closely with the Calgary Police Service, the Royal Canadian Mounted Police (RCMP), the Crown Prosecutor’s Office, Calgary and Area Child and Family Services Authority and the treatment community.

### **The Current Evaluation of the Calgary Child Witness Court Preparation Program**

The study involves a 12 year review of the Calgary Child Witness Court Preparation Program (CCWCPP). The research comprises two components: a file review leading to quantitative data analyses of the program case variables and conducting in-depth qualitative interviews with key Calgary stakeholders, namely police, Crown prosecutors and child welfare workers to determine their experiences and perceptions of the program (see Appendix for Interview Schedule). The evaluation objectives are to: evaluate the existing program (i.e. content, implementation of program, referral process.), determine areas of strengths and limitations so the current program can be improved, identify the major issues impacting children who testify in court (i.e. court stressors, fears, support) and identify the current trends in investigating and prosecuting offences.

Having a comprehensive knowledge of the major issues affecting court-involved children will enable this particular organization to develop new programs and enhance

existing ones, making them more relevant to needs and circumstances of children and families. This information will not only benefit the direct recipients of the Calgary Child Witness Court Preparation Program but will also benefit others who work with this population (i.e. police, Crown prosecutors, Victim Services Programs, other child witness court preparation programs, etc.). The results of this component of the study will no doubt contribute to the investigative practices and court preparation practices of those working in the criminal justice systems.

### Chapter Three: Stakeholders Perceptions of Issues for Children Testifying in Court

In addition to examining the case file data from 12 years of Calgary’s Child Witness Court Preparation Program, we interviewed forty-one professional stakeholders that understand the impact and issues with children testifying against perpetrators of abuse.

Table 1: Professional Affiliation of Stakeholders

<b>Key Stakeholder Interviewees</b>	<b>N= 41</b>
Police Officers	9
Crown Prosecutors	5
Child Welfare Workers	6
Therapists/Social Workers/Psychologists	8
Court Preparation Facilitators <sup>3</sup>	13

#### Typical Stressors in Testifying in Court

One of the first questions was, “What are some of the typical reactions of children when they are anticipating going to court?” For the overwhelming majority of children who must testify, court is a stressful experience, according to the key stakeholders. Nevertheless, a minority of children are motivated to testify and want the perpetrator to have a consequence, according to three respondents (one police officer, one Crown prosecutor, one therapist).

*Some children want the person charged to have a consequence. They don’t represent the majority. Some I’ve worked with have something to say about what happened and are happy to have their day in court. (Therapist)*

Most children, though, find testifying stressful. The most stressful circumstance is when children must testify against a family member. Children may also be stressed because they lack support from their family. The nature of the offence can also affect how stressed the child is, with children testifying about sexual abuse being the most anxious. As well, younger children generally have more difficulty testifying. Aspects of the courtroom experience and the court system are also stressful including: having to face the offender, being cross-examined and delays in the case getting to court.

#### Testifying against a Family Member

The most frequently mentioned stressor for children was testifying against a close family member, noted three quarters (thirty-three) of the stakeholders (six police officers, four Crown prosecutors, six child welfare workers, seven therapists, ten facilitators). This can create conflict for children who may still feel attached to the perpetrator.

*One of the most difficult is if the child has to testify against somebody they know very well. It’s much easier to testify against the stranger. It’s easier to be angry and hate that person rather than somebody you know well and may even love. It’s very difficult for little kids to understand those conflicting feelings. (Therapist)*

<sup>3</sup> Of 13 Court preparation facilitators, all but one worked in Child Welfare or had Child Welfare experience.

*Particularly if the family member is the offender, kids pick up a lot like, "If I tell the truth my mom's gonna get hurt or my mom won't love me anymore." Especially teenage kids. One of the most important things is reinforcing that she has done nothing wrong. In particular, if it's a family affair. (Police officer)*

*Quite often there's some relationship with the accused. The closer the relationship, the harder it is. They're torn between telling the full truth or minimizing what happened. (Police officer)*

The following case examples describe the difficulties of children who had to testify against a family member.

*One child who's going through the proceedings: her dad didn't sexually abuse her, he sexually abused her girlfriends. She has a strong connection with dad and is afraid that he is mad at her, but she has to testify. (Therapist)*

*A 6-year-old girl was testifying. The person that committed the offence was her favourite uncle, so it was very hard. She cried throughout. They could not continue and the charges were dropped. (Child welfare worker)*

*One father horribly abused his 4-year-old son culminating in breaking, manually snapping his legs. Can you imagine how horrible the abuse was prior to that? I didn't want the child to testify – and in fact, he couldn't. He'd been so abused that he almost had no communication skills at 4 years. I had to put him on the stand for the court to evaluate that he couldn't testify. Literally, we had to drag him in. It was very traumatic but without his out of court statements, we had no hope of convicting. We had a support person, the screen, we employed all of the tools to make it as easy as we could. He probably wasn't in the court longer than five minutes, he literally ran out the doors. (Crown prosecutor)*

### **The Consequences of Testifying against a Family Member**

Several respondents commented that children worry about the consequences of their testimony for their family and for their own future when they are testifying against a family member. Children were concerned that their testimony might lead to the break up of their family, as noted by five respondents (three police officers, two therapists).

*The worst case is if it's dad. They're torn by their love for their father and that they've done this horrible thing and it's split the family. Children very much feel responsible for the split. Dad's no longer at home. Mom cries at night. Mom has to work now. Dad's parents may support dad so we don't see grandma and grandpa anymore. When the family dynamics change as a result of the disclosure children feel very guilty. That's a huge sense of responsibility. (Crown prosecutor)*

Children may also be concerned that their father will go to jail, as mentioned by five respondents (one police officer, one therapist, three facilitators).

*The accused was the biological father: it was extreme sexual abuse. You have relationship issues, concerns about loyalty and about the future. The children are concerned about the accused, if they're going to jail, if they're going to see them again and that's where it gets intertwined and creates problems. (Therapist)*

*One 11-year-old girl didn't want to testify. She knew her dad was going to jail. I couldn't lie to her. In fact he did go for five years. She was afraid of seeing her dad in court and afraid by her telling, she was ruining the family. What we had to get across to her, "He did that, not you. You did nothing wrong." (Police officer)*

*A boy around 11 had been sexually abused by his mother and the mother's boyfriend and was physically traumatized by their actions. This boy had to testify in criminal court against them. He did a good job in terms of testimony but broke down afterwards. The judge believed his story and they were both convicted. Mom was sent to prison for five years and the boyfriend got about twelve years because of other kids he had abused. So pretty major sentences and that was very difficult because he felt responsible for sending his mother to prison. Eventually he was able to work that through but it was very traumatic for him. (Therapist)*

If the family is financially dependent on the offender, the child's testimony will likely also create financial difficulties for the family, which can increase the stress for the child and the family, as noted by six respondents (two police officers, two therapists, one child welfare worker, one facilitator).

*There's that fear that if the child gives a direct account of what happened that person's going to jail. If the accused is convicted and was the major breadwinner for the family, that's going to have significant financial implications for the family in terms of basic housing, needing to go on welfare. (Therapist)*

Children are also more stressed if they have been removed from their family by child welfare authorities, or believe that they might be removed, according to six respondents (one police officer, one Crown prosecutor, one child welfare worker, one therapist and two facilitators).

*That particular child's distress came from having to be removed from the parent's home and be in foster placement. (Court preparation facilitator)*

*If a child's having to testify because it's a criminal matter, it could affect their foster placement, who they're going to have access with, their counselling, their school, family violence issues. That's much more difficult. It's impacting your well-being and your sisters, brothers and family. (Court preparation facilitator)*

*If the parent is the offender and the other parent is not supporting the child, and the child has to be removed from the family, it is extremely difficult. The child feels that they did something wrong. A supportive parent is key. (Police officer)*

Nevertheless, one child welfare worker/facilitator commented that children may get more support in a foster placement than they would at home.

*It's hardest on kids in their families who don't have parental support versus the child who's got a foster family there for them. (Court preparation facilitator)*

### **Lack of Family Support**

Lack of support from their family was identified as a major source of stress for children by more than half (twenty-five) of the respondents (six police officers, three Crown prosecutors, five child welfare workers, five therapists, six facilitators). Most

important for making the court experience less stressful for children is having a parent who supports and believes them, according to three quarters (thirty-two) of the respondents (eight police officers, four Crown prosecutors, three child welfare workers, six therapists, eleven facilitators).

*The most difficult is where you have a family that's not functioning 100% or may not have the resources to cope effectively with this disclosure and they make the child feel responsible for the changes. Where the caregiver, the spouse, or the non-offending spouse is not 100% supportive of the child. (Crown prosecutor)*

*An important component is does a child feel that they've been believed? Often times when I question kids, "Why did you feel you couldn't tell mommy that daddy was abusing you?" "Well what's the point, she doesn't believe me anyway." It can be a real hindrance to the child even disclosing. (Child welfare worker)*

*If they don't have the support of the non-offending parent, it's very, very difficult. That little girl's mother truly didn't believe that the offence had taken place and she was still in love with this guy. That was communicated to this child, maybe not directly, but she certainly knew where her mother's loyalties were and picked up on that lack of support. It made the experience way harder. (Therapist)*

The following case examples illustrate the difficulties for children when they are not supported or believed by their families.

*It was mom's boyfriend and she didn't want to believe it. There was actual physical evidence, which is rare. She was doing her best to support her child, but was confused by her feelings toward this person who she had seen as supportive and helping her. She was young, going to school and he was providing child care. So she was not able to be emotionally present for this child. (Therapist)*

*A girl had been abused by her best friend's dad and her best friend's dad and her mom were a couple. Her mom didn't believe her. During court, she could hardly walk and she cried the whole time she was on the stand. Everyone in court was gulping because her trauma was so evident. Had she been able to do Court Prep, I think some of that fear might have been alleviated. (Court preparation facilitator)*

Lack of support from the family may be related to the family being in chaos or not functioning well enough to give the child support, according to one police officer and two therapists.

*Intrafamilial are always difficult, especially if there's a divorce and custody and access. Usually if it's intrafamilial, one faction of the family supports the child and the other supports the offender. The child's in the middle and all the pressure's on them and they know what they're saying is going to affect the family for the rest of their life. It's way too much pressure for a child. (Police officer)*

*It has a lot to do with family support and functioning. Quite often the children have very complex families, poverty, generational abuse, family violence. It can be a single parent or two parents, but if it has support and they are stable, they get through it much easier than a family that has other stuff going on as well. The children don't have the same kind of support at home from the adults who are also traumatized by the situation. Instead of being able to support the child it will*

*bring up their issues and it's difficult for them to differentiate between the child's experience and their own. (Therapist)*

Families may want to support their children, but may have few resources to get their child to court or to the Court Preparation Program, noted three respondents (one police officer, two facilitators).

*Money can be an issue. "How are we going to get to court? Do we have bus tickets, we can't afford a cab, we have a 1960 car, is it going to start?" Some families have no phones. The Crown's called the family up and the number's disconnected. If mom has more than one child and they have to go to court, it can be difficult to find a sitter or they can't pay for the sitter. With a lot of the families there's just not that family support there. Mom and kids are on their own, feeling isolated and scared about the process. (Court preparation facilitator)*

Sometimes the non-offending parent does not protect the child from the perpetrator or the perpetrator may still be living with the family, according to seven respondents (two police officers, two child welfare workers, one therapist, two facilitators).

*It's difficult for the child when the perpetrator has access to them and is putting pressure on them. If a stranger sexually assaults or rapes you, you're not expected to live with that stranger and let them have power over you waiting for the trial. Parental rights seem to supercede the child's right. It is unthinkable, the power that we give perpetrators over victims. (Court preparation facilitator)*

In the following case examples, the non-offending parents did not protect the children from the offender.

*One child I dealt with, the mom's boyfriend had sexually abused the child. Mom denied it and continued to have a relationship with the individual. The child kept crying and wanting to leave the environment. (Child welfare worker)*

*With domestic violence, so many times those relationships don't end so the child doesn't get the support they need from that parent when they go to court to testify. There's pressure on the kid not to say anything bad about dad because the family is still together. (Court preparation facilitator)*

*The accused sexually abused this girl's eldest sister and went to prison. When he finished his prison term, mom brought him to Alberta with her family and then he abused her. The children were apprehended. Mom didn't come to court. The daughter wanted her mother to love her and wanted mom's approval and yet wanted to testify to protect her youngest sister. She had gone through Court Prep but she fell apart in court and we took a recess. She was crying in the hallway, and saying, "I want to go home, I want to go home." (Therapist)*

Families may be opposed to their children testifying, noted a number of respondents (three police officers, one Crown prosecutor, three therapists, two facilitators).

*The child who is going to have the most difficulty is the one whose parents didn't respond supportively, who didn't believe them initially and/or continued not to*

*believe them, a parent who's got their own agenda for the child and who's made the child aware of that. "If you tell what stepdad did, you'll never come back home." Parents will lie to the child and say, "I'll never see you again and you won't be able to see grandma and grandpa." (Court preparation facilitator)*

*Look at how many cases end up not going to court because they come and tell their story and they recant a month later because one of the parents is saying, "Look what you're doing to this family." There are a lot of non-offending parents that wouldn't back their child up because it was tearing the family apart or the breadwinner's leaving. (Police officer)*

*Where the child is picking up ambivalence in a parent saying, "Yes, you should testify," but the parent being distraught that the person is charged and could be convicted and the loss of a breadwinner. Kids are very sensitive to those dynamics and if they believe their parents are not supporting them, even through subtle means or if their parents are overtly negative about the child testifying, it's so much harder. (Therapist)*

The child being threatened by the offender was a stressful circumstance mentioned by four respondents (one police officer, two therapists, one facilitator).

*If the child's told, "If you ever tell, I'm going to kill your mom or stab your dog or you'll never see your brother again." As soon as someone says that, that's on the mind of the child forever. (Police officer)*

On the other hand, support from the family can make the experience of going to court much easier for the child.

*If mom or the non-offending spouse is 100% behind the child and reassures the child that this is not their fault, they are the victim and the changes in the family are not their responsibility. The resources to access counselling and the Court Preparation program. So, a family that can understand what needs to be provided to support the child and has the resources to access them. (Crown prosecutor)*

*Support. A family giving love, so that they're physically in a safe place whether that be restraining orders or no contact orders with the offending parent Getting the child to know they're safe. Feeling that they've done the right thing, that everybody's behind them. Nobody's attacking them. (Police officer)*

*It's about family members that are very supportive and believe the child. Where a parent can remain strong and supportive for that child, but also have friends or family around them that are supportive of them as well. (Therapist)*

### **Other Difficult Circumstances**

Other circumstances of the case, including the age of the child, the nature of the abuse, fear of repercussions and whether there is corroborating evidence can also affect the child's level of stress. Testifying can be more difficult for younger children because, developmentally, they are less able to recall events in the distant past to verbalize, according to fourteen respondents (four police officers, two child welfare workers, four therapists, four facilitators).

*Very young children are required to remember details about the story and timing. Court tends to happen so far after the abuse occurs that for children a lot happens in that time frame and so memory tends to fade a bit. Trying to remember details or exact examples of what happened with the abuse two years after it happened for a child is very, very difficult. (Therapist)*

*One little girl had to testify about her biological father. She was low functioning cognitively; I think her IQ was 74. But she looked her chronological age. Verbally she could present quite well. But comprehensive wise, she just didn't get it. So she really, really struggled to give testimony and of course the defence attacked her on the stand and got her all muddled up. The outcome was horrible. The guy walked and the child didn't have support from her mother. (Therapist)*

Testifying about sexual abuse is particularly difficult for children, according to thirteen respondents (two police officers, three Crown prosecutors, one child welfare worker, five therapists and two facilitators).

*What they have to communicate is difficult to talk about. Whether it's a sexual assault, the most common case in which children testify, or my little boy whose dad horribly abused him. These are difficult to talk about to anybody, let alone strangers and to be questioned about it. (Crown Prosecutor)*

*The older the kids, the more they struggle with talking about the personal issues. Once they hit puberty, they are more aware what abuse is and what it means—especially when it's sexual abuse. Sexual abuse is really hard. (Therapist)*

*Kids going for sexual abuse cases find it harder because (of) the embarrassment of having to speak about that, especially when we tell them they have to in their own words describe what happened. (Court preparation facilitator)*

*One girl was 16. To talk openly to people who don't know her made her feel awful. It's the violation, especially when it's extensive sexual abuse and they get into details, and have to argue with Crown counsel or defence lawyers about what actually happened. It makes them feel completely re-victimized because they live it over and over again in front of the perpetrator. (Child welfare worker)*

Testifying may bring back memories of sexual assault or other kinds of abuse according to two respondents (one police officer, one therapist).

*With more severe abuse there's a greater chance the children are going to be more distressed. It's reliving it again, going through the court and the questioning and telling the story. Typically those kids need even more supports. (Therapist)*

Four respondents (two therapists, two facilitators) also mentioned that children have more difficulty testifying when they've experienced severe abuse.

### *No Corroborating Evidence*

Testifying is more difficult for children when there is no corroborating evidence, according to four respondents (two police officers, one child welfare worker, one therapist).

*It's difficult if it's a serious charge without some corroboration, medical evidence, witnesses. It's the child's word against the offender's. (Police officer)*

*When it's not black and white. With physical abuse you can see the bruises. It's hard for kids to testify in regard to sexual and emotional abuse because they can't see the bruises, or the physical evidence. (Child welfare worker)*

Fear of repercussions from the perpetrator is a concern of many children noted four respondents (one police officer, two therapists, one Court preparation facilitator).

*Children feel more vulnerable where they're providing testimony. It's likely that the perpetrator, if they're even convicted, will have a sentence like probation. Maybe they're not supposed to have contact with children, but they are still in the community. So the child knows that person is still out there. It doesn't alleviate their fears. Maybe their fears are increased now that they've testified. (Therapist)*

*Kids, especially teens, are afraid they're going to run into this person on the street and there are going to be physical repercussions. (Court preparation facilitator)*

### *Difficult Courtroom Experiences*

Children testifying in court may be anxious about a number of aspects of the courtroom experience, including fear of the unknown, seeing the offender, testifying in front of an audience, the formality of the courtroom and being cross-examined.

*They are afraid that they won't be believed; they're going to get mixed up; they might forget. They're afraid of the lawyer being mean to them and that he might get off which would mean that they weren't believed. That they might cry. Those would be the ones I hear the most often. (Court preparation facilitator)*

Sometimes children are afraid of court because it is unknown, they do not know what it will be like, noted seven respondents (two therapists, five Court preparation facilitators).

*More often than not it's fear of the unknown. A lot of times their experience with court is what they've seen on t.v. They believe that there's all this trauma associated with being in court and testifying. A lot of times they are fearful of the court process, what it means, what their role is. It seems to be more fear of not knowing what the process is going to be like and what their role is. (Therapist)*

The most common fear for children about the court experience is seeing the offender in court, mentioned by over half (25) of the respondents (five police officers, two Crown prosecutors, five child welfare workers, eight therapists, five Court preparation facilitators).

*The person who maybe committed the offence is sitting close to them and they have to talk in front of that person. That's a big factor for kids and parents. (Police officer)*

*For a lot of children, the biggest fear is seeing the accused and having to tell their story with the accused there. (Court preparation facilitator)*

*Facing or confronting the accused is difficult for many children because the person (is) right there and they have to tell directly what went on. That's terribly stressful for kids and family members who may have to testify as well. (Therapist)*

The following case examples describe the fear that children typically experience when facing the accused.

*One 12- year-old girl wouldn't come in the courtroom. She saw the accused and froze. That was it; she wasn't going to get up there. [What happened?] I think she was still afraid of him. (Police officer)*

*For children it's very intimidating to face the person that they've accused, particularly a family member or parent. One little girl, barely 6, talked about her dad and feeling like his eyes were burning into the side of her head, "I felt like he was telling me that I better not tell or he was going to hurt me." (Therapist)*

Children can also be stressed by meeting the perpetrator outside the courtroom, noted a therapist and a child welfare worker.

*One thing that came up with most kids was fear of seeing the offender and having to identify him. One child ran into the offender in the hallway. That was pretty stressful for her and wasn't a great way to start the process. (Therapist)*

*For my little one, it was being in the waiting room outside the courtroom and having the perpetrator stalk her, pace in front of her. He was trying to intimidate her. When you're a little kid and you have to report on someone who cared for you, it's a difficult. (Child welfare worker)*

Testifying before the court audience is stressful for many children according to more than half (25) of the respondents (four police officers, three Crown prosecutors, four child welfare workers, five therapists, nine facilitators).

*The older the child, the more aware they are that there might be strangers, or media in the court They are much more self conscious about what's happened to them, especially with sexual assault, and they are not going to be as effective in communicating the details of the evidence. (Crown prosecutor)*

*They are often frightened and understandably anxious about telling what is often a very personal and embarrassing account to a room full of strangers. I've heard a lot of kids say they don't want the general public to hear their testimony because it's embarrassing or they're scared to talk about it. (Therapist)*

*We had one youth testifying at a preliminary inquiry about prostitution by this older man. It was really difficult for him to testify about the sexual piece in front of adults and this judge in this formal setting. (Court preparation facilitator)*

Sometimes testifying in front of unsupportive family members is scary for children, according to two respondents (one police, one Crown prosecutor).

*Having family members there that they don't want to talk about these things in front of or that aren't supportive of them, that's extremely detrimental. If you've got grandma and grandpa that support dad, but don't believe the child, seated in*

*the court room and staring daggers at the child, obviously that's not going to enhance their testimony. (Crown prosecutor)*

*You've got grandparents, family friends there to listen to the child testify. They're looking at all those faces and seeing reactions and they tend to clam up 'cause they're afraid of hurting somebody. They're embarrassed about what happened and then they have to get up in court and say it in front of all those people. It's very, very difficult for a child. It's difficult for anybody. (Police officer)*

The formality of the courtroom and the court staff are stressors for children, mentioned by twenty-five respondents (four police officers, two Crown prosecutors, two child welfare workers, eight therapists, nine facilitators).

*The formality of the setting. The robes, the judge and the seriousness. (Therapist)*

*It's very formal. I don't want to say unfriendly, but it's a fairly cold, sterile environment. (Therapist)*

*Everyone is gowned, robed and everything is being tape-recorded and they are placed on the witness stand next to the judge. It's an intimidating place for anyone. There have been some positive changes in terms of how we deal with children, but the setting is still very, very intimidating. (Crown prosecutor)*

Being cross-examined by the defence lawyers is also stressful for children, according to twelve respondents (one police officer, one Crown prosecutor, three child welfare workers, five therapists, two facilitators).

*The cross-examination can be re-traumatizing. The cross-examiner can ask over and over again the same questions about the sexual abuse. Like, "When did he put the penis in your vagina?" Even the Crown prosecutor has to ask questions that are personal. (Therapist)*

*A little 8-year-old was asked to describe the room that the abuse had occurred in and became confused trying to give details and whether it was day or night. The defence lawyer badgered and did his best to confuse this child. The judge stepped in several times, but this poor child ended up leaving the courtroom a mess, crying. It could have been a much friendlier process. (Therapist)*

*One 13-year-old girl went to the prelim and then to our group. She talked about it as being very frightening. She felt the defence lawyer was mad at her, his voice was loud, he was all red in the face. We were able to talk about that some people are really intense, and he was probably not mad, it's just his job as a lawyer. She found it very intimidating. She was a quiet little girl, (not) from a family where there was lots of intensity and emotions. (Court preparation facilitator)*

*One little girl, 13, was sexually abused by her dad. The defence lawyer was badgering. He would ask the same questions six to eight times and she repeated the same answer over and over, "He would put his penis inside my vagina." (Therapist)*

The way that the court system operates can create additional stress for children. Stressors include: delays in the case getting to court and a lack of real consequences for the perpetrator.

## **Delays in the Case getting to Court**

Adjournments or the long wait for the trial causes stress for children according to almost all (thirty-six) the respondents (seven police officers, four Crown prosecutors, five child welfare workers, eight therapists and twelve facilitators).

*Any time a child has to go to court and be ready to testify and then told to stand down is so hurtful. The message is that these adults don't want to hear their story. (Police officer)*

*What about adjournments? They are very frequent, and very frustrating. It seems that the younger the child, the more adjournments they have. It's like a ploy to make it more and more difficult. The parents hate them and so do the kids. It just brings it up over and over again and there's no resolution. For a kid, two years down the road is a long time to live with the fear. (Court preparation facilitator)*

Delays can also be stressful for parents noted three therapists and three facilitators.

*Adjournments make me insane. The court process itself is far, far too long particularly in child abuse. We're talking about children and children's memories, as well as anxiety and anticipation of court. Then to have court adjourned and adjourned, it's crazy making for kids and a great cause of stress for parents. They're ready, let's get this done and then the court's adjourned. It's incredibly damaging to the children. (Therapist)*

Three facilitators and one child welfare worker commented that adjournments or delays getting to trial are also hard because children want to complete the court process and get on with their lives.

*The system uses far too many adjournments. Kids are in limbo in some instances: they can't move on in their lives. The anticipation of having to testify is traumatic enough. They just want to get it over with. An adjournment is an extreme letdown. The anxiety level goes back up. They thought they were going to have an end to something that has been like a nightmare. As far as I'm concerned, it's another form of abuse. I was involved in a two-and-a-half-year trial (because) the mother kept firing her lawyer. (Child welfare worker)*

*The time delay between when an incident of abuse occurred and when the child may end up going through court is a huge stress for kids and families. From the child's point of view, it's very tough to be set to go ahead and then things are adjourned. It's just prolonging the whole ordeal. (Therapist)*

*One 10-year-old girl made allegations of sexual abuse against dad. There was no contact with dad; long waits for the court process. They would have liked to have had it done so they could get on with life. She did give evidence and the outcome was not guilty. The court removed conditions that she and dad couldn't have contact, so they had to work through that whole issue. It took three years in terms of the actual process and probably years beyond that. (Child welfare worker)*

Two therapists mentioned the importance of children completing the court process so that they are free to talk to a parent or therapist about the experience.

*The length of time that children have to wait has improved, but it needs to improve even more. Children need to put the situation behind them. I understand from a legal perspective that the parents are not allowed to talk to their children about the abuse. But kids need to talk about it. Dragging it out for six months or a year with an inability to talk to about it except in court raises anxiety for the child, it doesn't help them resolve the issues. As therapists, we are not allowed to see a child until the investigation is over. Certain things in treatment we would not be allowed to touch on until the trial is over. It's not a good process therapeutically for children. (Therapist)*

If the perpetrator is not convicted or the penalty is minor, that is a negative experience for children who have testified, according to four respondents (two police officers, two therapists).

*The fear that nothing's going to happen, that's real. People getting their wrist slapped, not ever having a consequence for doing horrible things. The most violent one I ever had, two young girls, they plea bargained and he spent six months in jail and it was horrific what he had done. The kid's feeling, "What was the purpose of going to court? I didn't need all of that!" I haven't had one case where the outcomes did not affect the child more negatively than positively. Most kids secretly hope that the judge will see how bad it was and give the offender more time. So they're always devastated by the very little time. They're going to live with something forever and these people could be done in a couple years. When they find out it's only going to be six months they feel cheated. (Therapist)*

*Where the accused is found not guilty, the child has gone through that year-and-a-half process of preparation and testifying only to find out, "The judge didn't believe me. Why did I bother testifying?" Those are tough to take for kids. (Police officer)*

The following case examples show how children react when the accused is not charged or convicted.

*One girl was completely traumatized. She was like, "Nobody believed me, it was like I just made the story up." All she saw was that he didn't get convicted so they didn't believe her. (Police officer)*

*This one little girl just barely 6, but very verbal, it was her dad. The end result was that no charges were laid. It was her hope that if she told the truth there would be proper punishment and she wouldn't have to see her dad anymore. There were enough loopholes and dad had a good lawyer so he got off. (Therapist)*

### **Stressors for Parents**

Parents also experience stress when their children are testifying in court. They react in a variety of ways.

*A whole gamut of emotions. Some parents are quite pushy with their kids and it puts extra burden on the kids. Other parents are very supportive and calm, cool and collected. Every family is different. (Police officer)*

*You have those who are really gung ho to have their child give evidence because they really want to see the accused convicted, and they're quite keen. Then there are those who have systemic issues. There are parents who are very concerned about how this could damage the child emotionally. A lot of parents have that concern. (Court preparation facilitator)*

*A wide variety of feelings from parents thinking, "Finally, we're going to get this guy" and hope that the perpetrator will be punished accordingly and bring some closure to this whole ordeal. Fear, worry, just like children. What kind of impact is this going to have on their child, having to get up there and testify? Having to see the perpetrator too. Parents express worries about their own reaction. Are they going to be able to be strong and support the child versus falling apart, particularly when a child is actually up there testifying? Or doing something crazy, like saying things to the perpetrator. (Therapist)*

According to two therapists and one facilitator, if the parents are stressed, often their children are stressed too.

*Very much the same as the children. There's a lot of nervousness. If a child is really unglued, typically a parent is not dealing with it as effectively. Their reaction is much the same. (Therapist)*

A common reaction of parents is apprehension about the impact on the child of testifying, according to 19 respondents (seven police officers, one Crown prosecutor, six therapists, five facilitators).

*Most have been very anxious, worried about whether their child is going to be traumatized again. Often they've been interviewed by police by social workers, court dates have been put off a number of times so the process has taken a number of years. Its one more thing for their child to go through and it brings up all the bad things that happened so they're pretty anxious. (Therapist)*

*Parents are always concerned how the child is going to be affected by testifying. They recognize that something wrong happened and they try to balance the need to go to court to testify and cranking up the stress on them over what's actually occurred. The family is concerned about whether there are going to be long-term issues for them to resolve because of having to testify. (Police officer)*

Some parents feel guilty and blame themselves for not knowing about the abuse and protecting their children, according to two respondents (one Crown prosecutor, one therapist).

*Some parents blame themselves, take responsibility. "Why wasn't I told that this happened?" or "Why wasn't I more aware?" or "How could I have prevented this?" (Crown prosecutor)*

Possible repercussions from the accused are a concern of parents mentioned by two respondents (one therapist, one facilitator).

*Caregivers have often some of the same reactions that children do, being fearful about the repercussions of their children testifying or their testifying, especially if the accused is not convicted. (Therapist)*

*Frequently parents are concerned that the children will be victimized by the accused for giving evidence. That continues to be a huge issue for the parents and kids. (Court preparation facilitator)*

Parents being frustrated with the legal system was a reaction mentioned by eight respondents (two Crown prosecutors, one child welfare worker, two therapists, three facilitators).

*Parents are often more apprehensive than the children. They are powerless as they cannot prevent their child testifying. They are sometimes angry at the system and at the need for the child to testify. (Crown prosecutor)*

*If the child disclosed to the parent and the parent then has to testify in court, sometimes the parents are fairly frustrated that they can't be there to support their child if they are doing testimony after. With the parents there's fear, but also frustration around the legal process. Things taking a long time, uncertainty about court, worries about how their child is going to react and what long term that's going to mean for their child. (Therapist)*

*The parents can't believe that these kids would be required to testify after everything they've gone through. The younger the child, the stronger that feeling. They are very angry, frustrated both toward the accused and the justice system. They perceive the accused as having more rights than their child. They often feel that it's the child against the accused when they go to court. (Court preparation facilitator)*

*Sometimes families have unrealistic expectations: that the case is going to be heard within two weeks of a person being charged, and it's all going to be wrapped up. When that doesn't happen, they're often very frustrated, very angry and disappointed. You have to help families have more realistic expectations of the legal process, what it's about and that it is adversarial, that the defence lawyer is hired to defend his client and that one can't take it personally. A lot of people take the cross examination to heart. (Therapist)*

### **Trends in Prosecuting Cases Involving Children**

One of the stressors for children is the lack of consequences to the offender. A number of the stakeholders expressed opinions about trends in charging, prosecution and resolution of cases involving children. The most common comment was that sentences are light. Three child welfare workers, three therapists, and one facilitator held this view.

*There's a trend towards light sentencing. I'm continually amazed at how our society seems to treat offences against children as less serious than offences against adults. I don't know if it's a trend or if it's been that way all along. It's much harder to get a conviction when you have a child testifying. (Therapist)*

A child welfare worker believes that some sentences had become lighter, but that in sexual assault cases, more offenders are being given jail time.

*Sexual assault is been taken a bit more seriously. The push to keep people out of jail has lessened. It depends on the age of the child, how detailed their disclosure and how many charges can be laid based on the disclosure. I've seen some get a*

*long time and others, a two-year conditional sentence, which for what he did to her was appalling. But she didn't give the greatest disclosure and everyone wanted to avoid the child having to testify. So they hammered him with what they could. (Child welfare worker)*

A Crown prosecutor's opinion was that sexual assault offences against children had always resulted in jail time.

*Cases of child sexual assault almost always result in jail time and if a major sexual assault, the starting point is penitentiary range. (Crown prosecutor)*

### *Police not Charging*

Six stakeholders (two child welfare workers, two therapists, two facilitators) noted a trend to police laying fewer charges in cases with child witnesses, often because the child is not considered a good witness.

*My biggest criticism is that the police don't tend to charge unless they've got an iron clad case. The comment will be that this child is not going to be a good witness, so we're never going to get through court. (Child welfare worker)*

*Not as many cases were going to court. I don't know why. Decisions are made not even to investigate. The child is interviewed and considered not to be a good witness. They certainly are more cautious about charging and deciding whether a case will be investigated or not. (Therapist)*

*More often than not with sexual abuse cases there are no charges laid whether it's because he said, she said and they decide the child's too young or the details aren't there. A lot of it is this push to have the interviews done at the police station instead of in the home. There's not a process of that officer getting to know the kid before they interview them and a lot more kids aren't saying anything and then nothing can happen. (Therapist)*

However, two other stakeholders (a therapist and a child welfare worker/facilitator), believe that more charges are being laid.

*The police are much more apt to pursue cases and try to lay charges. With the training now they get a much better statement from the kids and they're much more specialized. They're much more willing to interview kids and to pursue a charge than in the past. (Therapist)*

One Crown prosecutor saw a trend towards more acquittal in cases involving children because the evidence of children witnesses is not as "effective".

*These are the most difficult cases in which to obtain convictions and the trend is acquittal. There's usually little corroborative evidence. It's the child says and the adult says. Children's evidence may not be as effective as it could be. Doesn't mean they're not telling the truth, it's just not being effectively communicated to the judge. The adult's been well prepared by his lawyer. You've got nothing to tip the scale one way or the other. It's a rare case in which we have medical evidence. The majority of these cases involving child witnesses where there is no*

*corroborating evidence lead to acquittal unless there's some confession or statement from the accused early on. (Crown prosecutor)*

One therapist thought that more credence was being given to child witnesses now than in the past.

*Across North America there has been more credence given to child witnesses than maybe 20, 30 years ago. People put much greater emphasis on developmentally sensitive and appropriate interview techniques. We're way beyond 20 years ago when people would interview kids for criminal investigations without any kind of training. Lynn and her colleagues have done a great job offering that education to the Calgary community and beyond. (Therapist)*

Two therapists and one facilitator thought that there was more plea bargaining, though one of the therapists did not know whether this was a trend. Another therapist's opinion was that convictions are rare but more offenders are pleading guilty.

*Unless there is a witness or concrete physical evidence of damage to the child, it doesn't seem very often that there is a guilty verdict. The one fortunate trend is, in the stronger cases, the offender more often pleading guilty so that the child doesn't have to testify. If the case is strong enough the lawyer is saying, "You'd be smart to plead guilty." Judges tend to be harsher on people that plead not guilty and make children testify, who they then end up finding guilty. (Therapist)*

### **Strategies for Child Friendly Courtrooms**

With all the stressors for children and the challenges to getting cases involving children properly heard in court, stakeholders argued that changes should be made to the court system. They provided a number of suggestions for making courtrooms and the court system more child-friendly, including: child-friendly courtrooms, court personnel sensitive to children's needs, a variety of strategies so that children would not have to face the accused, a support person with the child in the courtroom, cases getting through the court system faster and more support for parents.

One suggestion from stakeholders to make the court system friendlier for children was to design courtrooms especially for children. This strategy was suggested by thirteen stakeholders (three police officers, three Crown prosecutors, two child welfare workers, three therapists, two facilitators).

*Tables and chairs the child could sit at, maybe some toys, something calming and familiar, whether it is colouring books or teddy bears. Just something from home. But definitely knowing their job and knowing when they go into the courtroom, it's going to be a little different. (Police officer)*

*Our court rooms are fairly big, they are oak wood and very solemn, almost like church. Why can't we have comfortable chairs, a few stuffed animals for the kids? I don't think that would take away from the seriousness. (Police officer)*

*A case many years ago, we had a young child - very afraid, and the judge actually came down off the bench. We rearranged the court room and put four tables together. We all sat at the tables and put the child in the chair beside us and that*

*was the only way we could get the child to give any evidence. She did testify. It made a huge difference. (Crown prosecutor)*

Stakeholders also thought that the court environment would be friendlier to children if court personnel were more sensitive to the needs of children and made concessions to make the experience less stressful for children. Judges being more sensitive or friendly was a change mentioned by nine stakeholders (two police officers, one Crown prosecutor, one child welfare worker, one therapist, four facilitators).

*The judges could take a more active role in speaking with the witness, to put them at ease so that they are not feeling that they are going to make mistakes or that they will get into trouble for making mistakes. (Police officer)*

Defence lawyers are too aggressive and judges have a role to play in controlling defence lawyers, according to four stakeholders (one police officer, one child welfare worker and two therapists).

*I've been in court where defence lawyers attack a child. It's their credibility they're trying to get. So that boils down to a sensitivity issue. He's got a job getting his client off, however, where is that fine line between badgering, wilfully trying to make this child look bad, and sensitivity? Who controls that ultimately? The judge does. (Police officer)*

The need to use appropriate language that can be understood by children was mentioned by two facilitators.

*Questions should be asked in language appropriate to the child's age and development. It's intimidating for them and for the parents if they don't understand the questions. (Court preparation facilitator)*

Training for court personnel on how to deal with children was a need expressed by three stakeholders (one Crown prosecutor, one therapist, one facilitator).

*You need judges that know how to speak to kids without being an authority; judges and Crown that have some training in how children think and what their capacities are. Children don't use the same words; they don't mean the same things when they say something. We need judges that understand the developmental issues that kids might have. Training judges, lawyers and police that you're not dealing with a miniature adult and they're not going to process things the same way. (Court preparation facilitator)*

*In law school, courses in developmental theory are not taught, so individuals come out of law school unprepared for the most part in how to talk with kids. I've done some training for child welfare workers of how to ask children questions, how not to ask leading questions or suggestive questions, how to build rapport. I think that's been useful. It would be nice, however, to see more attorneys in that kind of seminar. (Therapist)*

However, this same therapist noted some positive changes, with judges being more sensitive:

*We've come a long way in terms of judges being more sensitive to kids, their developmental levels, their anxiety levels and sometimes really putting the breaks*

*on over zealous or even aggressive defence lawyers who try to take a strip off the kid. It still happens, but I think judges are more sensitive to children. Crown attorneys certainly are better prepared to handle child witnesses. (Therapist)*

Several stakeholders also suggested that the court should make allowances for children, allowing them to sit down (five stakeholders: one child welfare worker, one police officer, two therapists, one facilitator) or giving them breaks (one child welfare worker, one therapist).

*For children to stand is difficult. They're going to fidget in a chair, but they're not going to get as tired. One child I worked with was on the stand all day. She did okay, but it would have been nice if they'd built in some breaks for her instead of just when the judge decided he had to take a break. She had a very strenuous day. If she could have had a fifteen-minute break every now and then, she'd have been okay. (Court preparation facilitator)*

Two facilitators suggested that children would find it easier to meet the judges in their chambers.

*In family court, we've had judges take kids into chambers and speak with them privately there. Why can't the judge allow the kid to give evidence in chambers assuming that it's not a jury trial; take his robes off and sit in an office setting? An office setting is familiar to most children. They could make it a lot friendlier and inviting. Even if everybody sat around a big conference table and looked at each other at eye level. (Court preparation facilitator)*

### *Protecting Children from Facing the Accused*

Stakeholders had a number of suggestions on how to protect children from seeing the perpetrator, one of the greatest fears children have about going to court. They recommended screens to shield the child from the accused, using videotaped testimony and the child testifying in a separate room.

Respondents were asked to comment on the use of screens or shields in the courtroom to prevent the child from seeing the accused. They were thought to be beneficial by over half (twenty-three) of the stakeholders (seven police officers, three Crown prosecutors, four child welfare workers, six therapists, three facilitators).

*I use screens often. There are pros and cons. Different prosecutors have different views on screens. Sometimes the screen has to come down and the child has to point out the offender. Some people are of the view that that not only potentially tainting the identification, but is also more traumatic for the child if they know that at some point the screen is going to be removed. In my experience screens are useful. They're not going to see the offender until the end and all they have to do is point to him. So there's a comfort level. It prevents the accused from using body language to communicate to the child that they're not being believed or they're in trouble. (Crown prosecutor)*

*Intrafamilial sexual assault cases are very difficult, but having the offender there makes it more difficult. The prosecutors try to have screens in place with the*

*judge's consent, but still, they know that person is behind there, and the courts still require positive identification. (Police officer)*

*Sometimes they can be useful. But a lot of kids, especially older ones, know the person is behind the screen, hearing everything. Sometimes it is helpful not having the visual image of the person there because that can be intimidating. Sometimes the accused can be pretty subtle about non-verbal messages. (Therapist)*

Three facilitators thought that they could be helpful in some cases but were concerned that the impact of the testimony might not be as strong with the screen.

*I'm a fence sitter on screens. It would be helpful if younger children don't have to see the accused, but there's more strength to their testimony when the screen's not present. (Court preparation facilitator)*

*Feedback from the court clerk is that they're not being used much, and the Crown has to get permission the morning of. We prepare them to testify without a screen and to avoid looking at the accused. I let the child and family decide if it was an option. I've heard that if you use the screen sometimes you don't see the emotional impact in the witness that you might see if he's there. If you don't have that same emotion, the judge may not be as inclined to believe that the event occurred. (Court preparation facilitator)*

*That's stressful for lots of kids to face the accused. You can use a screen, but there's research that screens lower the conviction rate. Parents ask about screens. We tell them we try to prepare kids so they can do without it, because there's no guarantee that they're going to get one. (Court preparation facilitator)*

Three others, a Crown prosecutor, a facilitator and a therapist, thought that, though they could be helpful, there may be drawbacks.

*There's much debate about screens for children. In provincial court, screens are awkward and not always effective and there's an argument by the defence that the accused should be able to see his or her accuser. I think an exception could be made for children. Identification is an issue. You can reconcile that by a photo line-up which is less intrusive to a child. But if you have a stranger attack, usually they have to identify, look at that person and point. That's uncomfortable for anybody. (Crown prosecutor)*

*They have used them and for some children it may be beneficial. But my feeling is that most kids would try to peer around the screens to see what others were doing or saying. It also says to the child that they've done something wrong, so we have to hide you from this person. (Court preparation facilitator)*

In the opinion of four respondents (two police officers, a child welfare worker and a therapist) screens are not helpful. A police officer argued that the Court Preparation Program is more beneficial in preparing children to do well in court than the use of a screen:

*Court Prep is probably 75% more effective than the shield. There's strategies you can use. "Don't look at your accused. You're telling your story to the judge, so*

*look at him.” It’s all about preparation for court. You’re trying to tell your story credibly so that somebody believes it. You can stick a shield up, but if you don’t have the preparation the outcome’s going to be the same. (Police officer)*

Some stakeholders commented on how easy or difficult it was to get permission to use screens. Three justice respondents (one Crown prosecutor and two police officers) said it was easy to get permission but others found it difficult to get permission (two therapists, one police officer, one facilitator).

*Shields certainly help so they only have to look at the judge and ultimately that’s who they’re going to tell their story. Some judges just say no. It goes back to the common law principle; you should be able to face your accuser. I’m not sure that that holds a lot of water. They are children and deserve some concessions. Is the story going to come out differently because the accused gets to look at the person accusing him? I don’t think so. (Police officer)*

One therapist found it easy to get permission for a screen, but on the day of court, the screen was not there.

*One recent one that went through the Court Prep Program was very worried about having to see the perpetrator, so I advocated for a screen. I talked with her lawyer and the detective beforehand. But when it came right down to it, there was no screen, and people were scrambling to find something. (Therapist)*

### *Videotaped Testimony*

Half (twenty) of the stakeholders (three police officers, three Crown prosecutors, five therapists, four child welfare workers, five facilitators) also mentioned that using videotaped testimony in place of the child telling their story directly to the court was helpful. Four respondents didn’t know enough to comment.

*When a child is able to disclose to police and then adopt that in their evidence, that is so much pressure off the child. They still have to face them and do cross-examination, but they don’t have to tell that whole painful story again. What they do is they watch themselves on the video and say, “Yes that was me, those are the things that I said,” (Court preparation facilitator)*

*It’s useful in minimizing the number of times the kid has to tell his or her story. It’s very difficult for kids to go through multiple interviews where they to tell their story time and time again, especially little kids. They inadvertently get the message that they are being re-interviewed because they didn’t do a good job in the first place, so they may change their story to placate the adults. They’re still open to cross-examination. But it can be very, very useful. (Therapist)*

Videotaped testimony can be more powerful and credible than testimony in court according to a facilitator and a therapist.

*I’ve seen testimony on video that was not only powerful, but clear, truthful and closer to the time that it happened so there was more information than if that child goes to court nine months or more later and their memory starts to fade. I think there is a real benefit to allowing video. (Court preparation facilitator)*

*Videotaped testimony is usually taken soon after the offence occurred. It's more credible than a child that's testifying two years later because we all know what happens to our memory two years later. I prefer to see videotaped testimony and if the judge had questions for the child, then bring the child to court. (Therapist)*

Three respondents (two facilitators, one Crown prosecutor) mentioned drawbacks to using videotaped testimony.

*It only removes that small piece where the Crown would interview them; you still have to be available for cross-examination, and then you're being cross-examined on something you said two years ago. It's probably not as helpful as people thought. They might be better to recall it when they're on the stand and be cross-examined on that. (Court preparation facilitator)*

*It's not the best evidence. Normally the courts want to hear from the actual person so it comes down to the matter of weight. A judge is assessing credibility. It's hard to look at a tape that's a year old. (Crown prosecutor)*

*The defence needs to cross-examine so they can play a video but they're going to have to answer questions anyway. In some cases I see it being better for a child to answer Crown prosecutors' questions because it's going to be questions that they can answer and they know this person somewhat. It gets them somewhat comfortable before they get cross-examined. (Court preparation facilitator)*

### *Testifying in a Separate Room*

Testifying in a separate room, so that children/youth do not have to see the accused, would be helpful according to nine stakeholders (two police officers, two Crown prosecutors, three therapists, two facilitators).

*I like the notion of video feed, a separate room where the child victim or witness can provide their testimony to the judge or whoever is hearing the case out of sight of the accused and in a more comfortable setting. They can be cross-examined in that private room. Being able to see the witness is important to the judge but they would be able to in a television presentation. The system wants the truth and (to) get the best evidence. Why put people through an artificial setting that's doesn't help people provide the best evidence? (Police officer)*

*In B.C., a young sexual assault victim testified by closed circuit TV in an adjoining room. I understand it was effective and accepted. The judge could still assess credibility and she could be cross-examined. (Crown prosecutor)*

*In Saskatchewan, they had children give testimony and taped them and the alleged was in another room watching the video. It was still not easy to give the details but it was much easier that he was not in the same room. (Therapist)*

One police officer thought that the child giving testimony in a separate room was not helpful:

*I've had children cross-examined by video, and I don't know which is worse, the camera that's stuck right there and the guy on the TV asking you a question or*

*being in a court room with a guy directly there asking questions. I didn't see any benefit other than the child didn't have to see the accused. (Police officer)*

### *Closed Courtrooms*

Another aspect of court that children find difficult is giving their testimony in front of an audience. Closing the courtroom to spectators is a way to protect the child's privacy. Closed courtrooms were seen as a helpful strategy by over three quarters (thirty-three) of the stakeholders (seven police officers, four Crown prosecutors, five child welfare workers, seven therapists, ten facilitators). Three of the stakeholders (one police officer, one therapist, one facilitator) had no experience of closed courtrooms.

*I'd throw out the general public. It should be private. There should be room enough for family, friends and court workers for both victim and accused. That's intimidating for the children to stand up there. It's hard enough for them to tell what happened because of the embarrassment and guilt. You throw intimidation on top of that and you've got one scared little kid. (Police officer)*

*Closed courtrooms are very important. The older the child, the more aware they are that there might be members of the public or media in court. They are much more self conscious about what's happened to them, especially with sexual assault. They are not going to be as effective communicating the details of the evidence if there's people there they don't know. (Crown prosecutor)*

*The idea is for the kid to (not) have to say it in front of a courtroom full of people. In fact, not many people watch other than those who are truly interested as in the family. In the defence's opinion it must be an open public trial. The defence is using it for intimidation, but the judge has to make a decision. I've only had a prosecutor ask once and be turned down. Generally they don't even ask. It's rare to have a closed court. (Police officer)*

One police officer had mixed opinions about closed courtrooms.

*There are positives and negatives. The positive of closed court is for the victim or the witness and their family, and the negative is that a lot of information is kept from the media and the public have a right to know. In some cases, depending on the severity, it might be better to keep it closed. However an open courtroom allows the communities to see that these dangerous individuals are out there. The victim and their family having input would be ideal, the judge taking into consideration their wishes. (Police officer)*

### *Support Person for the Child in the Courtroom*

Having a support person in the courtroom for the child, like a family member or another trusted adult, was seen as important by a number of stakeholders, (two police officers, one Crown prosecutor, three child welfare workers, four therapists, two facilitators).

*Having somebody beside them that they know or trust, just to give them that little bit of support. (Police officer)*

In the following case example, the support people were two police officers and a child welfare worker.

*The police officers involved with the abduction, stayed with the case all the way through and went to court with her. Mom [the alleged abductor] showed up at the courthouse and tried to approach the child and the police officers blocked her, so she couldn't influence the child. One got in the way and the other one took the child and went somewhere. Those kinds of things happened on two or three court appearance so that the police said, "We're going to be there if this child is going to be there." She saw her mom, but we protected her and this child gave her evidence and came out feeling quite powerful. (Court preparation facilitator)*

### *Hearing Child Cases More Quickly*

The court system should ensure that cases involving children are heard quickly recommended seven stakeholders (two child welfare workers, two therapists, three facilitators).

*Shortening the time from the time the charges are laid until the time they actually go to court. For a kid, two years is a long time to live with the fear. (Court preparation facilitator)*

*The time between charge and trial could be shortened. Getting therapy in place is important. Some therapists won't touch the case until criminal matters are over. Also children's memory fades. There may not be corroborating evidence, so the child's memory may be all they have to go on. With a younger child the evidence may be lost if there's too much delay. (Child welfare worker)*

*It would be a big benefit to shorten that time—to move trials up quicker when kids have to testify. For these two children that I helped testify it was really hard. They wanted to move on with their lives but couldn't forget about it because they knew they were going to have to testify. (Court preparation facilitator)*

When a family has few resources, a police officer and a facilitator suggested that they should be helped financially.

*The vast majority of these people are poor and they need some other resources to help with the family. We came and arrested dad and kicked him out and he's not to be within four blocks of the house or ever have any contact. Well that's great but how is a single mom going to feed her kids? So maybe we can help there. The system or a family member could help. If those needs are met, it's going to be a lot easier for us to get the kid to testify, whereas if those needs aren't met, we may not. (Police officer)*

### **Resources for Children Other than the Court Preparation Program**

Stakeholders were also asked what resources are available for children in addition to the Court Preparation Program. Counselling was mentioned most frequently, by sixteen respondents (one police officer, three Crown prosecutors, four child welfare workers, five therapists, three Court preparation facilitators).

*We generally try to have the child get in contact with counsellors at the Children's Hospital as soon as possible even prior to the criminal court matter being resolved and that's to help deal with the issues they are facing. That is an effort to redirect the kids' attention that they haven't done anything wrong and just to build up their self confidence and esteem. (Police officer)*

*We do it informally with our own clients. We have clients who go through Court Prep, but we also talk in therapy about what court is going to be like. It's important to debrief afterwards. "What was it like? What were the positive and negative points? What are your fears of it happening now?" (Therapist)*

*We can certainly refer for any kind of counselling if the Court Prep is not enough and the child is struggling. Some of the therapists do some level of Court Prep; they wouldn't do in-depth, but they'll certainly do a lot of the feeling stuff. (Court preparation facilitator)*

Victims Services was also mentioned by five respondents (two police officers, one Crown prosecutor, one child welfare worker, one Court preparation facilitator).

*There was a worker at court for them from Victim Assistance. Somebody to say it's okay. This is the right thing to do. (Police officer)*

Child Welfare was mentioned as a resource for children by one Crown prosecutor and one Court preparation facilitator.

### **Resources for Parents**

The stakeholders were also asked what resources are available for parents. Counselling as a resource for parents was mentioned by three child welfare workers and seven therapists. The Victim Assistance Unit was mentioned by eleven stakeholders (two police officers, two Crown prosecutors, three child welfare workers, two therapists, two Court preparation facilitators).

*We need to have someone work with the family early on. I'm thinking of the Victim Services unit who I understand are stretched pretty thin. But we really need that early support person with the entire family, so the concerns of the caregivers and the family members are not being communicated, whether subtly or directly, to the child prior to court. (Crown prosecutor)*

*Victims Assistance has been a really big help and the Crown prosecutor's office, Public assistance unit. We educate parents during the first session so they know they can call there if they have questions, if they need to know the case number, something about the court date, or what other witnesses are coming. That can be really helpful for parents. (Court preparation facilitator)*

Child Welfare as a resource to parents was mentioned by four child welfare workers and one therapist, though two of the child welfare workers said that because of their workload, child welfare workers can only provide minimal support.

*We're supposed to be the advocate, the person keeping in touch with families if the kids are at home and connecting moms with support services, whether it's agencies, therapeutic support or keeping them informed about court. Some moms connect really well with Victim Assistance and get lots of support from them*

*through the police. Our system falls down because we do investigations and then we flip files to someone who doesn't know anything. (Child welfare worker)*

In summary, the comments of the key stakeholders with respect to the process and impact of children testifying is remarkably similar to the previously cited research on this topic.

## **Chapter Four: The Court Preparation Program File Review**

The quantitative analysis of the Calgary Child Witness Court Preparation Program (CCWCPP) was conducted on data gathered from case files from between 1992-2003, including demographic information for the children who were both referred to and attended the program (i.e. sex, age, and race), child's residence, victim/witness status of the child, caregiver of the children, relationship to the offender, sex of the offender, referral source, date of original charge, criminal charges, type of offence, duration of time between original charge and trial court, court outcome, dispositions, children's testimony, use of witness screens, use of videotape disclosures, and program involvement and attendance. The following analyses were conducted primarily on the children who attended and were prepared in the program. However, in some instances, comparisons were made with children referred to the program but who did not attend.

### **Demographics of Children Referred to the Court Preparation Program**

During the twelve-year period between 1992 and 2003, approximately 2129 children were referred to the Court Preparation Program, with the program actually preparing 785<sup>4</sup> (or 38%) of these children. The state of their program involvement is unknown for 62 child referrals.

Of the prepared children, 70% were girls (n=548) and 30% were boys (n = 237). Participants ranged in age from 1 year old to 21 years, with a large portion of the children falling between 12 to 15 years (n = 314). The average age of the children/youth was 11.73 years (11.67 years for females and 11.87 years for males).

Information on race is available on 664 of the 785 children prepared in the program (121 missing cases). The majority of court preparation clients (83% or n = 554) are of Caucasian descent. Almost nine percent (n = 58) of clients are Aboriginal. Other races served by the program include<sup>5</sup>, African-Canadian (n = 18 or 2.7%), Asian (n = 17 or 2.6%), Southeast Asian and Middle Eastern (n = 9 or 1.4%), Central/South American (n = 4 or .6%).

Of the 1282 referred children who did not participate in the program, 51% (n = 645) were girls and 49% (n = 633) were boys<sup>6</sup> and ranged in age from 1 year<sup>7</sup> to 25<sup>8</sup>, with the mean age being 13 years (12.49 years for girls and 13.51 years for boys). The large majority are Caucasian (85 % or n = 967), 3.8% (n = 43) are South East Asian, 3.7% (n = 42) are Aboriginal, 3% (n = 34) are African-Canadian, 2.6% (n = 30) are Asian, and the remaining children were Middle Eastern (n = 6) or Central/South American (n = 1).

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<sup>4</sup> This is only an estimate as many of the cases were duplicated in the data set. While attempts were made to identify the duplicated cases it was not possible to do so conclusively.

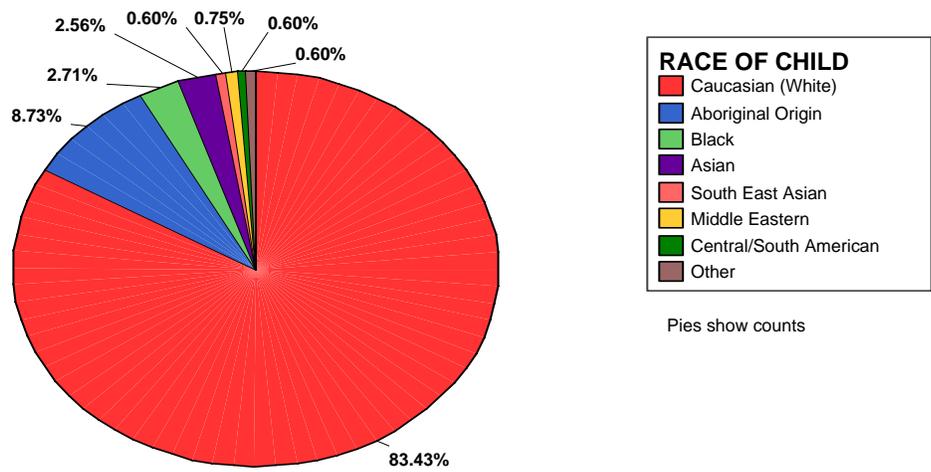
<sup>5</sup> No information was given for the participants who fell under the "other" race category (n=4, .6%).

<sup>6</sup> Information about the child's sex is missing on four referred-only children.

<sup>7</sup> Children aged 1 year were referred to the program along with their siblings, but were not prepared because of their young age.

<sup>8</sup> In rare circumstances, the court preparation program will prepare persons older than 18 years of age.

### RACE OF PREPARED CHILDREN



An examination of the children's living arrangements at the time of referral was available for 769 referred-only children (513 missing cases) and 665 prepared children (120 missing cases). Of the prepared children, the majority (88% or  $n = 586$ ) was residing with one or both parents. Eight per cent ( $n = 54$ ) were residing in foster or group homes, 2% ( $n = 16$ ) were living with other relatives, and the remaining children ( $n = 9$  or 1.4%) were living in 'other' arrangements. The living arrangements were similar to the referred-only children, as 92% ( $n = 709$ ) of the referred children were residing with a parent, 4.4% ( $n = 34$ ) were residing at a foster/group home, 2% ( $n = 16$ ) were residing with a relative, or 'other'<sup>9</sup> (1.3% or  $n = 10$ ). Additional information, such as the prevalence of family breakdown and family problems is not collected.

Information about child welfare status was collected on 494 referred-only children (788 missing cases) and 418 of the prepared children (367 missing cases). At the time of referral, only slightly more than one quarter (25.7% or  $n = 367$ ) of the referred-only children had some time of child welfare involvement, whereas more than half of children prepared in the program (61% or  $n = 254$ ) had child welfare involvement. Information was not collected about the nature of child welfare involvement.

Information about the victim/witness status of children was collected on 1277 referred-only children and 781 prepared children. Of the referred-only children, the majority (82% or  $n = 1049$ ) were victims only, 13% ( $n = 170$ ) were witnesses only and less than 5% ( $n = 58$ ) were both victims and witnesses. Of the prepared children, most were also victims of an offence (67% or  $n = 526$ ). Whereas only slightly more than 17% ( $n = 139$ ) were witnesses to an offence only, and 15% ( $n = 116$ ) of children were both victims and witnesses to an offence.

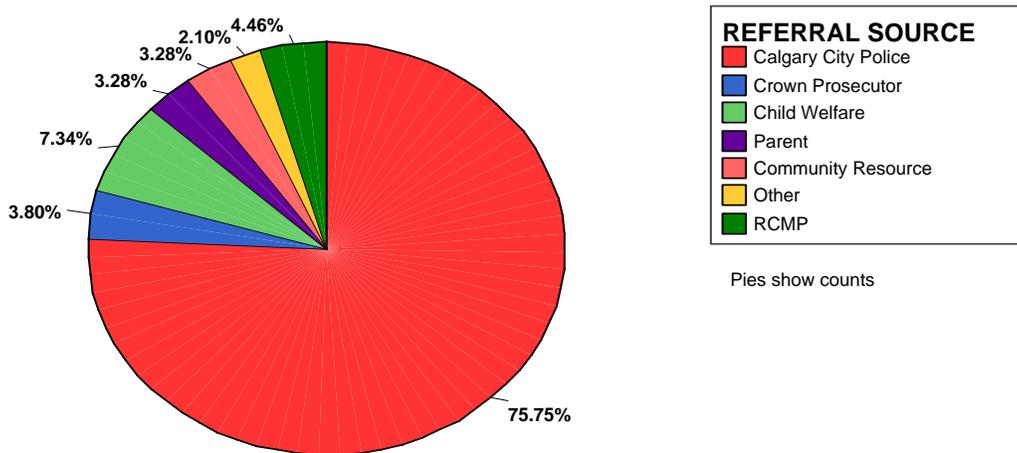
<sup>9</sup> No information was given about the specifics of this category.

For both program participants and program referrals-only, many were victimized by multiple offenders. Of the 785 children who attended the Court Preparation Program, 10% (n = 78) were victimized by more than one offender; and fifteen of these children were victimized by three or more offenders (one child had six offenders!). Of the referred-only children, 14% (n = 178) were victimized by more than one offender, with 40 children having three or more charged offenders.

### Referral Source

The majority of the 2129 referrals to the Court Preparation Program came from the Calgary City Police (86% or n = 1674). Of children actually prepared in the program, the majority of referrals also came from the Calgary Police Service (76% or n = 578). Seven percent (n = 56) came from the child welfare system and the remainder came from RCMP detachments outside of the city (n = 34 or 4.5%), parents (n = 25 or 3%), community organizations (n = 25 or 3%), and other<sup>10</sup> (n = 16 or 2%). Interestingly, fewer than four percent of referrals (n = 29) were from the Crown Prosecutor office. Referral source was similar for the referred-only children, with almost all referrals (93% or n = 1036) coming from the Calgary Police Service.

**REFERRAL SOURCE OF PREPARED CHILDREN**



### Types of Offence

The Court Preparation Program tracks only the three most serious offences laid against an offender, but the following analysis on offences includes only the first most serious charge. Most of the *Criminal Code of Canada* charges for both the referred-only and prepared children can be classified into three categories of types of offence – sexual offences, physical assault offences, property-related offences. Sexual offences include

<sup>10</sup> This category includes one referral from a guardian and one referral from a life skills coach. No specific information, available on the remaining 14 “other” referral sources.

charges of a sexual nature, including sexual assault, sexual assault causing bodily harm, sexual assault with a weapon, aggravated sexual assault, sexual interference, sexual exploitation, indecent assault, indecent act, gross indecency, anal intercourse, and invitation to sexual touching. Physical assault offences include charges such as common assault/assault, assault causing bodily harm, aggravated assault, assault with a weapon, and choking to overcome resistance. The property-related offences include charges such as break and enter, theft, and robbery. Offences not fitting into these categories are classified into an “other” category, including murder/attempted murder, uttering threats, abduction, criminal harassment, weapons-related offences, obstructing justice, breach of probation, public mischief offences, and prostitution-related offences, to name a few.

Of the 2389 offences that were brought to the attention of the program (including children who attended and did not attend the program), physical assault offences made up 39% (n = 933) of all offences, sexual offences made up almost 37% (n = 885) of the offences and property-related offences made up almost 15% (n = 349) of all offences committed against children referred to the program. The remaining offences are classified as “other”. However, a large majority of these offences include uttering threats (n = 128).

For the children who participated in the program, sexual offences were the most common, with almost 60% of all charges being sexual in nature (n = 481). The most common sexual offence was sexual assault (n = 401). Physical assault offences made up slightly more than ¼ of the offences (26% or n = 213), with the most being common assault/assault (n = 135). Property-related offences made up 8% (n = 61) of all offences, with almost all being robbery (n = 53).

This is in contrast to the children who were referred to but did not participate in the Court Preparation Program. Of the referred-only children, slightly less than half were victims (46% or n = 580) of a physical assault, 17% (n = 211) were victims of a property offence, and only one-quarter (n = 344) were victims of a sexual assault.

### **Offences and Age of Victim/Witness**

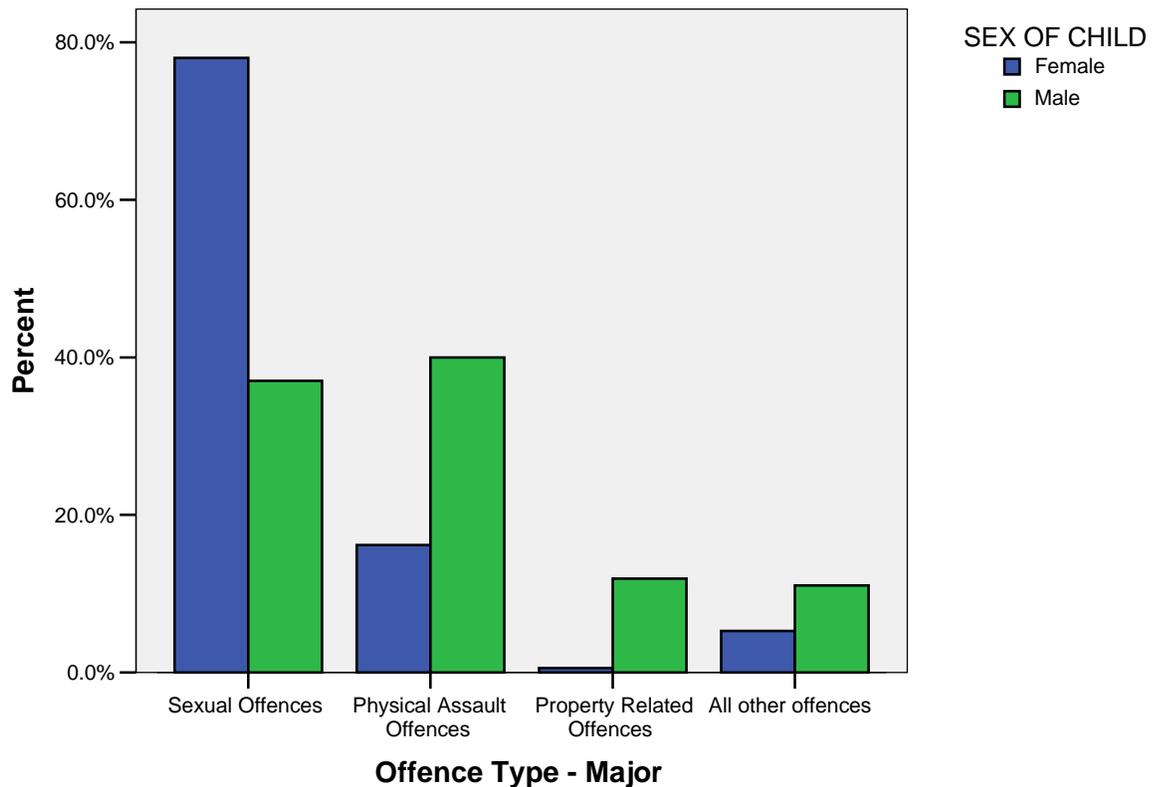
*Criminal Code of Canada* offences were broken down by children’s age group for the children who attended the Court Preparation Program. As mentioned previously, sexual assaults made up almost half of all offences (n = 401) and approximately 70% of these involved sexual assaults against children between the ages of 8 and 15 years (n = 282). Common assault/assault was the second most common charge for the children who were prepared in the program (17% or n = 135) and these mostly occurred against children between the ages of 12 and 15 years (57% or n = 77). Robbery (n = 53), sexual interference (n = 43), assault causing bodily harm (n = 39), assault with a weapon (n = 31), and uttering threats (n = 18) were other common charges allegedly perpetrated against children who participated in the program.

### **Offence Type and Gender of the Child Victim/Witness**

Analyses were conducted to examine the relationship between the type of offence laid and the gender of the child victim/witness. The results indicate that the type of offence appears to be related to the child’s gender for both the referred-only group of children and the children who attended the program. The majority of referred-only sexual assault victims were girls (84% or n = 286), while only 16% of victims were boys (n =

56). The same was true for children prepared in the program. The large majority of sexual assault victims who participated in the program were female (83% or n = 415), with males representing only 17% (n = 87) of sexual abuse victims. In fact, more than three quarters of the girls prepared in the program had experienced some form of sexual victimization, whereas, only a little more than one third (37%) of boys had been sexually victimized.

### Offence Type and Gender of Child Victim/Witness who Attended Court Preparation Program



With respect to the referred-only children and physical assaults, the majority of victims were boys 59% (n = 340) while 42% (n = 239) were girls. For the children prepared in the program, boys and girls experienced almost equal victimization of physical assaults, with boys representing 52% (n = 94) of the 180 physical assault victims, and girls representing 48% (n = 86) of the physical assault victims. Within their own gender, 40% of boys (n = 94) were physically victimized, while only 16% (n = 86) of the girls in the program were victims of physical assaults.

In terms of property related offences and the referred-only children, boys made up 82% (n = 173) of the victims, while girls made up only 18% (n = 38) of property crimes. For the prepared children, a larger percentage of boys were victims/witnesses in property related offences than girls, with slightly less than 12% of boys (n = 28) involved compared to less than 1% (n = 3) of girls.

## Offender's Relationship to Child Victim/Witness

Information pertaining to victim/offender relationship was available on 2309 offenders in the program's database<sup>11</sup> (108 missing cases). Most of the offenders knew the children that they victimized (86% or n = 1997), while strangers only made up slightly more than 13% (n = 312) of the offenders. Specifically, peers represented the largest group of offenders (33% or n = 759). Family members and relatives represented the second largest group of offenders (26% or n = 603) and most of these offenders were the natural parents (n = 291). Stepparents represented slightly more than 4% of offenders (n = 103). Relatives made up 8% (n = 187) of the offenders, and one percent (n = 22) of offenders were siblings. Trusted adults (i.e. teacher, coach, babysitter, neighbour, or family friend) represented 18% (n = 430) of offenders. Finally, foster parents represented almost 2% (n = 45) of the offenders.

Victim/offender relationship was examined for referred-only children and children who were prepared in the program and is illustrated in the following table.

**Table 2: Relationship to Offender/Attendance at Court Prep**

Relationship	Child did NOT attend Court Prep	Child DID attend Court Prep	Total
Natural Parent	156 (11.2%)	127 (15.4%)	283 (12.8%)
Step-parent	47 (3.4%)	54 (6.6%)	101 (4.6%)
Parent's Partner	76 (5.5%)	77 (9.3%)	153 (6.9%)
Sibling	9 (0.6%)	10 (1.2%)	19 (0.9%)
Relative	84 (6%)	98 (11.9%)	182 (8.2%)
Foster Parent/ Non-related kinship care	32 (2.3%)	13 (1.6%)	45 (2%)
Trusted adult (coach, babysitter, teacher)	296 (21.3%)	126 (15.3%)	422 (19.1%)
Peer (child's peer)	517 (37.2%)	200 (24.3%)	717 (32.4%)
Stranger (not known to child or family)	174 (12.5%)	119 (14.4%)	293 (13.2%)
<b>TOTAL</b>	<b>1391</b>	<b>824</b>	<b>2215</b>

The data indicates that referred-only children and prepared children had similar victim/offender relationships, however, referred-only children appear to have been victimized more by peer offenders. A Pearson Chi-square analysis was conducted, with the results showing a significant relationship between the variables victim/offender relationship and participating in the court preparation program, suggesting that children who were victimized by peers were less likely to attend the court preparation program ( $\chi^2 = 92.494$ ,  $p = .000$ ) than those children who were not victimized by their peers.

## Victim/Offender Relationship and Offence Type

The victim/offender relationship was analyzed by type of offence for 2301 offenders known to the Court Preparation Program. In terms of the 856 sexual offenders,

<sup>11</sup> For both the referred-only children and children who attended the Court Preparation Program.

almost 55% (n = 468) of offenders were known but unrelated to the child<sup>12</sup>. Almost thirty-five percent (n = 302) of the sexual offenders were related to the child, with a large proportion of these offenders being the child’s “relative” (n = 138) (this excludes siblings, step-parents and other categories). Trusted adults represented one quarter of sexual offenders (n = 214), while peers represented almost 14% (n = 123) of the sexual offenders. Finally, strangers represented almost 10% (n = 84) of sexual offenders. Of the 802 physical assault offenders, 70% (n = 566) of the offenders were known but unrelated to the victim. Most of these offenders were the child’s peers (n = 407). Seventeen percent (n = 133) of physical assault offenders were related to the victim, with most offenders being the natural parents (n = 70). Strangers represented only 13% (n = 103) of physical assault offenders.

The variables ‘victim/offender relationship’ and ‘type of offence’ were separated out between the referred-only children and children prepared in the program, demonstrated by the following table.

**Table 3: Offence Type by Attend Court Prep**

Child Attend Court Prep?	Relationship	Sexual Offences	Physical	Other	Total
No	Family	98 (33%)	64 (21.5%)	135 (45.5%)	297
	Trusted Adult	157 (42.1%)	124 (33.2%)	92 (24.7%)	373
	Peer	48 (9.2%)	304 (58.3%)	169 (32.4%)	521
	Stranger	29 (14.9%)	68 (34.9%)	98 (50.3%)	195
<b>Total</b>		<b>332 (23.9%)</b>	<b>560 (40.5%)</b>	<b>494 (35.6%)</b>	<b>1386</b>
Yes	Family	182 (67.2%)	56 (20.7%)	33 (12.2%)	271
	Trusted Adult	187 (82.7%)	28 (12.4%)	11 (4.9%)	226
	Peer	71 (34.8%)	84 (41.2%)	49 (24%)	204
	Stranger	53 (44.2%)	33 (27.5%)	34 (28.3%)	120
<b>Total</b>		<b>493 (60%)</b>	<b>201 (24.5%)</b>	<b>127 (15.5%)</b>	<b>821</b>

The table demonstrates that rates of perpetration for the various types of offences and victim/offender relationships are similar between the referred-only children and prepared children. However, there is a notable difference for the sexual offences laid against family members and children’s attendance in the Court Preparation Program. For example, 67% (n = 182) of the sexual offences are against family members of children prepared in the program, whereas there are only 33% (n = 98) of sexual offences against family members for the referred-only children. Another striking difference between the two groups of children, are the rates of peer victimization. It appears that the children who did not attend the program experienced a higher rate of offences by their peers (38% or n = 521) overall than did the prepared children (25% or n = 204). As stated earlier, this finding suggests that those children who are victimized by peers are less likely to attend court preparation programs. However, when the type of offences is taken into account,

<sup>12</sup> This includes parents’ partners (i.e., boyfriend/girlfriend), foster parents, trusted adults (i.e., teacher, coach, babysitter, etc.), and child’s peer.

children prepared in the program experienced a much higher rate of sexual victimization by peers (35% or n = 71) than the children who did not attend the program (i.e. referred-only group) (9% or n = 48).

### **Victim/Offender Relationship and Gender of Child Victim/Witness**

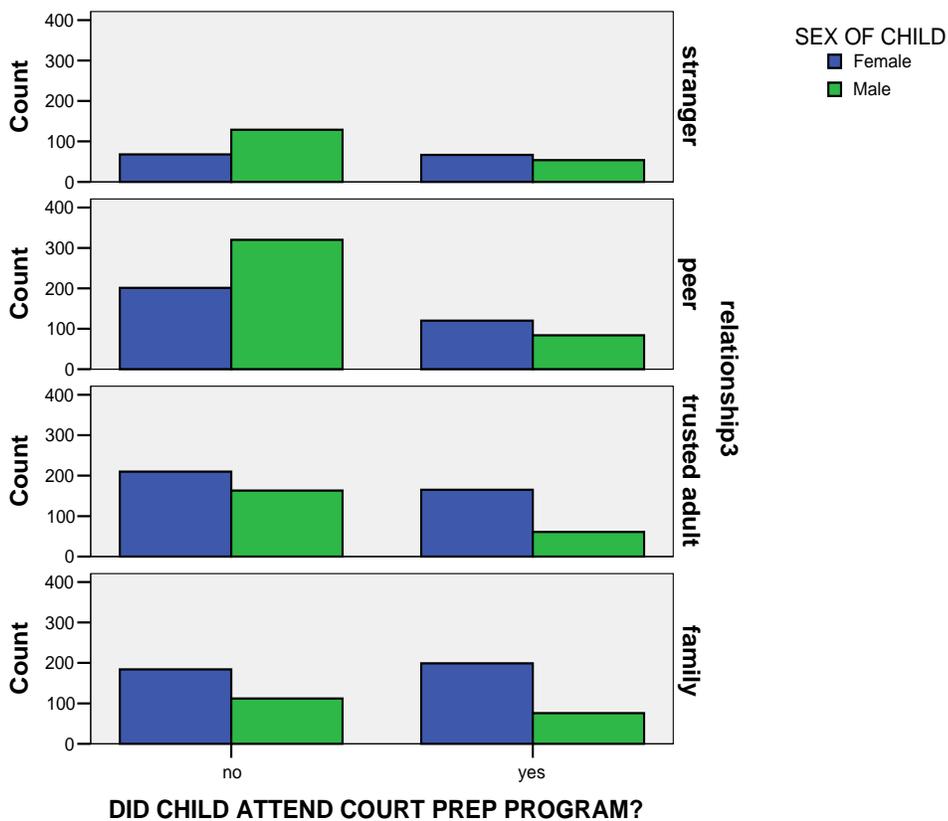
Victim/offender relationship and gender was examined on the referred-only children and the prepared only children. Of the children who attended the Calgary Child Witness Court Preparation Program, findings indicate that family members and relatives victimized 36% of the girls (n = 199) enrolled in the program. Thirty percent (n = 165) of the girls were victimized by a trusted adult and 22% (n = 120) of girls were victimized by their peers. Strangers made 12% (n = 67) of the offenders against girls. On the other hand, boys again were largely victimized by their peers (31% or n = 84). Twenty eight percent (n = 76) of the boys were victimized by a family member, 22% (n = 61) were victimized by a trusted adult, and strangers represented 20% (n = 54) of the offenders for the boys prepared in the program.

Of the referred-only children, the largest percentage of girls (32% or n = 210) were victimized by a trusted adult. Approximately, 30% (n = 201) were victimized by a peer and slightly more than one quarter of the referred-only girls (28% or n = 184) were victimized by a family member. Strangers made up 10% of the offenders against girls. In terms of the referred-only boys, a large portion of the boys were victimized by their peers (44% or n = 320). Twenty three percent (n = 163) of the referred-only boys were victimized by trusted adults and 18% (n = 129) were victimized by strangers. Interestingly, family members were the smallest group of offenders, with only slightly less than 16% of boys being victimized by a family member (n = 112).

Further, for the children prepared in the program, the intrafamilial offenders of girls tended to be natural parents (n = 87) and relatives (n = 74). This was also true for the boys enrolled in the program, with natural parents (n = 40) and relatives (n = 21) being the largest group of intrafamilial offenders.

### **Gender of Offender**

The Court Preparation Program tracks and documents gender as the only demographic characteristic of offenders. Information on gender was available on 2261 of the 2417 offenders (156 missing cases). Almost all of the offenders (including offenders of referred-only and prepared children) were male (87% or n = 1973), while only 13% (n = 288) of offenders were female. Further, the gender split for offenders was similar to referred-only children (85% male, 15% female) and the prepared children (91% male, 9% female).



### Court Outcomes

Information about court outcome is available on 1960 of the alleged offenders in the court preparation database (740 alleged offenders of children prepared in the program, 1131 alleged offenders of children who did not participate in the program and 89 offenders whose victims' participation in the Court Preparation Program is unknown). Of the 740 alleged offenders whose victims participated in the program, 34% (n = 253) of offenders were convicted at trial and 25% (n = 184) of offenders pled guilty. Almost 10% (n = 70) of the offenders had their charges withdrawn or dismissed. Nine percent (n = 67) had their charges stayed. Three percent (n = 22) were given a Peace Bond. Less than 3% (n = 20) of offenders had their charge withdrawn but were given Alternative Measures. Slightly more than 16% (n = 121) of offenders were acquitted. Three court outcomes were listed as "other" but no information was available. Court outcome information was unavailable on 123 cases.

Of children who did not participate in the program, approximately 52% (n = 593) of the offenders entered a guilty plea, 10% (n = 113) were convicted, 8% (n = 91) had their charges withdrawn/dismissed, 8% (n = 90) had their charges withdrawn but were given Alternative Measures, 7% (n = 84) were given a Peace Bond, 5% (n = 55) had their charges stayed. Slightly more than 4% (n = 50) were acquitted of their charges.

Fifty-five alleged offenders were given an "other" court outcome, including offender pled to a lesser offence (n = 16), offender convicted of a lesser offence (n = 4) charges waived out of province (n = 6), and a hung jury (n = 1). Two offenders were

found not responsible due to a mental disorder. Fifteen alleged offenders had a warrant out for their arrest at time of data entry. No information is available on the remaining eleven cases listed as others. Information about court outcome is unavailable on 23% (n = 329) of the offenders for this group.

*Court Outcome and Type of Offence for Program Participants*

Information about court outcome for three major categories of offences was analyzed for children who participated in the Court Preparation Program.

With respect to sexual offences and court outcomes, of the 470 alleged sexual offenders for whom court information is available, more than half (56% or n = 261) received a finding of guilt, either through some pleading guilty (16% or n = 75) or being convicted (40% or n = 186). Eighteen percent (n = 85) of the alleged offenders’ charges did not proceed (i.e., charges were stayed, withdrawn or dismissed). Twenty two percent (n = 105) of the alleged offenders were acquitted. Eleven percent (n = 5) received “other” court outcomes (i.e., Peace Bonds, pled or convicted to a lesser offence). Three percent (n = 14) of the offenders’ charges were still in progress at time of data entry. Information is unavailable for 47 alleged offenders

With respect to physical assault offences, information about court outcome is available for 194 of the alleged physical assault offenders. Thirty percent (n = 59) entered a guilty plea, 29% (n = 57) were convicted at trial, and 24% (n = 46) of the offenders’ charges did not proceed to trial. Only 6% (n = 11) of the alleged offenders were acquitted. Seven percent (n = 14) of the alleged offenders received “other” court outcomes and approximately 4% (n = 7) of the alleged offenders’ charges were still in progress. Information is unavailable for 13 alleged offenders.

**Table 4: Court Outcomes for Children Attending Court Preparation**

Court Outcome	Sexual Offences	Physical Offences	Property Related	All Other Offences <sup>13</sup>	Total
Guilty Plea	75 (16%)	59 (30%)	28 (52%)	22 (50%)	184 (24%)
Convicted	186 (40%)	57 (29%)	8 (15%)	2 (5%)	253 (33%)
Charges Did Not Proceed	85 (18%)	46 (24%)	18 (33%)	8 (18%)	157 (21%)
Acquitted	105 (22%)	11 (6%)	0 (0%)	5 (11%)	121 (16%)
Other	5 (1%)	14 (7%)	0 (0%)	6 (14%)	25 (3%)
Charges Still in Progress	14 (3%)	7 (4%)	0 (0%)	1 (2%)	22 (3%)
<b>TOTAL OFFENDERS</b>	<b>470 (100%)</b>	<b>194 (100%)</b>	<b>54 (100%)</b>	<b>44 (100%)</b>	<b>762 (100%)</b>
Missing Cases	47	13	8	14	82

Information about court outcome is available for 54 of the alleged offenders charged with property-related offences (i.e., theft, robbery, break and enter). Almost 52% (n = 28) of offenders pled guilty, 15% (n = 8) were convicted of their charges at trial, and

<sup>13</sup> The “other” category in Offence Type refers to other offences including traffic-related offences, prostitution, abduction, and attempted homicide.

33% (n = 18) of the offenders' charges did not proceed to trial. Interestingly, no offenders charged with a property related offence were acquitted and no charges were still in progress at time of data entry. Information is unavailable for eight alleged offenders. See Appendix 2 for table of court outcomes for offenders whose victims/witnesses were referred to the Court Preparation Program but did not attend.

#### *Court Outcome and Victim/Offender Relationship*

The evaluators wanted to know if perhaps court outcome is associated with the type of victim/offender relationship (i.e., intrafamilial vs. extrafamilial offenders) for children who participated in the Court Preparation Program. A Pearson chi-square was computed to determine if there is a relationship between the type of relationship and court outcome of all types of offences. The results indicate that there is not a significant relationship ( $\chi^2=8.390$ ,  $p=.136$ ,  $p>.05$ ), suggesting that extrafamilial offenders are no more likely to be convicted or acquitted than intrafamilial offenders.

#### *Court Outcome and Gender of Child Victim/Witness*

Court outcome and children's gender was also analyzed. Girls had a higher rate of offender guilty pleas than boys (58% for girls; 42% for boys). Of the 253 convictions, 72% (or n = 181) involved female victims and 29% (n = 72) involved male victims. However, of the 121 acquittals, most of these were charges involving female victims (84% or n = 102) vs. charges involving male victims (16% or n = 19). Charges not proceeding were higher for offenders who perpetrated against girls (63%) than for boys (37%). The following table compares court outcomes for boys and girls.

**Table 5: Gender by Court Outcome**

	Guilty Plea	Conviction	Charges Did Not Proceed	Acquitted
Girls	58% (n=108)	72% (n=181)	63% (n=100)	84% (n=102)
Boys	42% (n=77)	29% (n=72)	37% (n=58)	16% (n=19)
Total	185	253	158	121

A Pearson chi-square was computed to determine the relationship between the child's gender and court outcome (i.e., conviction vs. acquittal) for all types of offences. The results reveal a significant relationship between the child's gender and court outcome, such that cases involving female victims are more likely to result in an acquittal than boys ( $\chi^2 = 7.33$ ,  $p = .007$ ).

#### *Court Outcome and Age of Child*

Court outcomes were broken down into the age of children who participated in the Court Preparation Program. The results suggest that charges with respect to children over the age of 12 years experienced the highest rate of guilty pleas (68% or n = 99). In addition, offences involving children over 12 years of age made up more than half of the convictions (n = 119). Children aged 12-15 years had the highest proportion of charges not proceeding (44% or n = 56). Children aged 12-15 years also had the highest rate of acquittals (38.5% or n = 42).

**Table 6: Court Outcome by Age of Victim**

Court Outcome	0-3 years	4-7	8-11	12-15	16+	Total
Guilty Plea	0 (0%)	17 (11.6%)	30 (20.5%)	68 (46.6%)	31 (21.1%)	146
Convicted	0 (0%)	41 (17.4%)	76 (32.2%)	92 (39%)	27 (11.45%)	236
Charges did not proceed	0 (0%)	24 (19%)	26 (20.6%)	56 (44.4%)	20 (15.9%)	126
Acquitted	1 (0.9%)	17 (15.6%)	36 (33%)	42 (38.5%)	13 (11.9%)	109
Other	0 (0%)	1 (4.2%)	3 (12.5%)	11 (45.8%)	9 (37.5%)	24
Charges in progress	0 (0%)	2 (9.1%)	7 (31.8%)	8 (36.4%)	5 (22.7%)	22
Total	1 (2%)	102 (15.4%)	178 (26.8%)	277 (41.8%)	105 (15.8%)	663

A Pearson Chi-Square was also conducted to determine if there is a relationship between age of the child victim/witness and trial resolution (i.e. conviction vs. acquittal). The results indicated no significant relationship between the age of the child victim/witness and trial resolution ( $\chi^2 = 2.62, p = .62$ ). Because of the racial homogeneity it was not possible to compute a chi-square to determine the relationship between race and trial resolution.

*Offender Dispositions*

To determine offender dispositions, the program tracks only the three most serious offences against an offender and only the most serious disposition for each of the three charges. However, many of the offenders receive multiple dispositions but only three (one disposition for each charge) are tracked and documented. However for the purpose of this report, only the first serious offence and most serious disposition is included in the following analyses. Below is a table outlining the offender dispositions for children who participated in the Court Preparation Program and for all types of offences.

**Table 7: Dispositions of Court Cases**

Disposition	
Absolute Discharge	3 (0.8%)
Conditional Discharge	16 (4.1%)
Conditional Sentence	12 (3.1%)
Suspended Sentence	42 (10.9%)
Restitution	7 (1.8%)
Probation	89 (23%)
Jail	153 (39.5%)
Peace Bond	22 (5.7%)
Fine	15 (3.9%)
Community Sentence	8 (2.1%)
Other	20 (5.2%)
Total	387

“Other disposition” includes Alternative Measures (n = 19) and prohibition of deferred custody (n = 1). Overall, the most common dispositions are jail (40% or n = 153), probation (23% or n = 89), suspended sentences (11% or n = 42), Peace Bond (6% or n = 22) and Alternative Measures (5% or n = 19). Again, it is important to note that some offenders may have received a combination of dispositions for their charge(s).

### *Offender Disposition and Type of Offence*

For the children who attended the Court Preparation Program, jail was the most common form of offender disposition (almost 40%). Less than one quarter of convicted offenders received a term of probation. The information that has been gathered at this point suggests that offender probation and incarceration is similar to other programs. The length of probation ranged from 1 month to three years, with the average length being slightly less than 16 months. As for jail time, the length of incarceration ranged from 1 month to 25<sup>14</sup> years, with the average jail time being approximately 15 months. Other dispositions included suspended sentences, fine/restitution, community service, and conditional or absolute discharges. As for jail time, the length of incarceration ranged from 1 month to 25<sup>15</sup> years, with the average jail time being approximately 15 months. Offender disposition was broken down according to the type of offence (i.e. sexual, physical, property-related, and other) for the children who participated in the Court Preparation Program and is illustrated in the following table.

**Table 8: Disposition by Type of Offence**

Disposition	Sexual Offences	Physical Assaults	Property Related	All other	Total
Absolute or Conditional Discharge	3 (0.8%)	13 (3.4%)	1 (0.3%)	2 (0.5%)	19 (4.9%)
Conditional or Suspended Sentence	25 (6.5%)	19 (4.9%)	4 (1.0%)	6 (1.6%)	54 (14%)
Fine/Restitution	2 (0.5%)	9 (2.3%)	9 (2.3%)	2 (0.5%)	22 (5.7%)
Probation	42 (10.9%)	35 (9.1%)	10 (2.6%)	2 (0.5%)	89 (23.1%)
Jail	122 (31.7%)	21 (5.5%)	2 (0.5%)	7 (1.8%)	152 (29.5%)
Peace Bond	4 (1.0%)	11 (2.9%)	0 (0%)	6 (1.6%)	21 (5.5%)
Community Service	2 (0.5%)	3 (0.8%)	2 (0.5%)	1 (0.3%)	8 (2.1%)
Other/Alternative Measures	4 (1%)	11 (2.9%)	3 (0.8%)	2 (0.5%)	20 (5.2%)
Total	204 (53%)	122 (31.7%)	31 (8.1%)	28 (7.3%)	385 (100%)

The findings indicate that sexual offences received the most occurrences of jail terms (60% or n = 122). Jail time ranged from 1 month to 11 years with an average length of jail time of approximately 2.4 years. Property-related offences received the highest

<sup>14</sup> Three offenders were convicted of first degree murder.

<sup>15</sup> Three offenders were convicted of first degree murder.

occurrence rate of probation (32% or n = 10), but this was only slightly higher than the rate for offenders convicted of physical assault offences (29% or n = 35). Probation terms for offenders convicted for property related offences ranged from 1 month to 18 months, with a mean length of time of 11 months. Likewise, probation terms for offenders convicted of physical assault offences ranged from 3 months to 3 years, with an average term of 12 months. Sexual offences had an occurrence rate of probation of 21% (n = 42).

The length of probation ranged from three months to three years with a mean length of approximately 1.6 years. Offenders convicted of property-related offences were also given a disposition of fine/or restitution (29% or n = 9). Conditional or suspended sentences were given out in sexual offences (12% or n = 25) and physical assault offences (16% or n = 19). Community service was an infrequent disposition for all types of offences and this is not surprising given that it is likely not used as the only or most serious form of disposition given to offenders. Instead, community service orders are usually given along with other more serious forms of dispositions, such as probation.

### *Length of Time to Court*

Information on the length of time to get to court was available on 664 offenders whose charges proceeded to trial and whose victims attended the Court Preparation Program. Combining all types of offences, less than 18% (n = 117) of the offenders' charges proceeded to trial within a six-month period from when the original charge was laid. Forty-two percent (n = 277) proceeded to trial within 7-12 months, 19% (n = 129) of proceed to trial court within 13-18 months, and slightly less than 10% (n = 65) proceeded to court within 19-24 months. Eleven percent (n = 76) of the offenders' trials did not begin until two years or more after the original charges were laid. It is unclear how long it took for cases to be finally resolved in court (i.e. final disposition given) as the program does not track this information.

Of the 173 offenders charged with physical offences that proceeded to trial court and information was available on the length of involvement in criminal justice system, more than half of them (54.9% or n = 95) took between 7-12 months to proceed to trial, and less than one-quarter (24.3% or n = 42) took less than six months to be heard in trial court from the date the original charge was laid. Sixteen percent (n = 28) of cases took between 13-18 months and less than 4 percent (n = 6) took between 19-24 months to proceed to trial. Slightly more than 1 percent (n = 2) of the physical assault cases took more than three years to be heard in trial court.

The evaluation findings suggest that it took longer to bring offenders charged with sexual offences to trial court. Of the 401 sexual offenders whose charges proceed to trial court, only 12% (n = 49) went to trial in less than six months. Thirty five percent (n = 139) proceeded to trial court within a 7-12 month period from when the original charge was laid, and 22% (n = 88) were went to trial within in 13-18 months, and slightly less than 14% (n = 54) went to trial court after 19-24 months. Almost 18% (n = 71) of the sexual based offences took longer than two years to be heard in trial court, and 24 of these offenders were brought to trial court after three years.

Of the 50 offenders charged with property-related offences and whose charges proceeded to trial court, slightly less than one quarter of offenders (24% or n = 12) went

to trial in less than six months. Fifty-two percent (n = 26) proceeded to trial court within a 7-12 month period from when the original charge was laid, and 22% (n = 11) went to trial within in 13-18 months, and only one offender (2%) went to trial court after 19-24 months. No property-related offence took longer than 24 months to proceed to trial.

A Pearson chi-square was computed to determine if sexual offences take longer to be heard in trial court than non-sexual offences. The results indicate a significant relationship between sexual offences and the length of time between the original charge date and trial court, suggesting that sexual offences taken longer from charge to trial than non-sexual offences ( $\chi^2=81.478$ , p.000).

**Table 9: Offence by Time to Trial**

Time from charge to trial	Sexual Offences	Physical Assaults	Property related	All other offences	Total
Less than 6 months	49 (7.4%)	42 (6.3%)	12 (1.8%)	14 (2.1%)	117 (17.6%)
7 to 12 months	139 (21%)	95 (14.3%)	26 (3.9%)	16 (2.4%)	276 (41.6%)
13 to 18 months	88 (13.3%)	28 (4.2%)	11 (1.7%)	2 (0.3%)	129 (19.5%)
19 to 24 months	54 (8.1%)	6 (0.9%)	1 (0.2%)	4 (0.6%)	65 (9.8%)
2 to 3 years	47 (7.1%)	0	0	0	47 (7.1%)
More than 3 years	24 (3.6%)	2 (0.3%)	0	3 (0.5%)	29 (4.4%)
Total	401 (60.5%)	173 (26.1%)	50 (7.5%)	39 (5.9%)	663 (100%)

### *Children's Testimony*

Unfortunately, information about whether children actually testified in court was not readily accessible from any criminal justice information systems. While we could not ascertain which children did testify, there was information with respect to which children did not, ultimately, testify. In 338 cases, children did not testify. The reasons for not doing so included the charge not proceeding to court (53% or n = 187) or the offender pleading guilty (39.9% or n = 135). In one case, the child was too emotionally distraught to testify. The remaining cases had no information with respect to why the child did not testify.

Not knowing whether the prepared children actually testify in court is a serious limitation for this research as we are unable to determine to what extent children's involvement in the program (i.e. preparation) has on children's testimony.

### *Use of Courtroom Innovations*

Courtroom innovations include the use of witness screens, videotaped disclosure by the police, and the inclusion of videotaped testimony. It is likely that most cases do not involve the use of screens; however, the Court Preparation Program does not have access to this information as it is not consistently documented within the criminal justice system. In four cases, videotaped disclosure by police was used and three of these cases involved children who participated in the program. No information was available about the use of videotapes used in court proceedings, because again this information is not recorded within the criminal justice system.

### *Extent of Program Involvement*

The Calgary Child Witness Court Preparation Program offers group, individual and booster sessions. Not all of the 2129 children referred to the program between 1992-2003 actually attended the program. Instead, the program served 785 children. Of these, 601 children attended group sessions. Almost thirty percent (n = 176) only attended one group session, thirty percent (n = 177) of children attended 2-4 group sessions, and forty percent (n = 252) of the children who attended group sessions attended five or more. Two hundred and seventeen children attended the program's booster component. Fifty-two children participated in the individual sessions. It is important to note that the children are able to take one or all of the components. The program does not consistently collect information on the reasons why children do not attend court preparation.

In terms of gender and program involvement, boys and girls had similar rates of involvement in the group component, with approximately 74% (n = 176) boys attending at least one group session and 77% (n = 425) of girls attending at least one group session.

**Table 10: Group Participation by Gender**

Group Participation	Female Child	Male Child	Total
No group	123 (15.7%)	61 (7.8%)	184 (23.4%)
Group	425 (54.1%)	176 (22.4%)	601 (76.6%)
Total	548 (69.8%)	237 (30.2%)	785 (100%)

Similarly, there was not a strong gender difference in booster session and individual session participation. Almost 30% (n = 162) of girls attended at least one booster session and slightly less than one-quarter of boys (n = 55) attended at least one booster session. Six percent of girls (n = 34) attended at least one individual session and slightly more than 7% (n = 18) of boys attended at least one individual session.

**Table 11: Booster Session by Gender**

Booster Session	Female Child	Male Child	Total
No Booster	386 (49.2%)	182 (76.8%)	568 (72.4%)
Booster	162 (20.6%)	55 (7.0%)	217 (27.6%)
Total	548 (69.8%)	237 (30.2%)	785 (100%)

**Table 12: Individual Sessions by Gender**

Individual Session	Female Child	Male Child	Total
No Individual	514 (65.5%)	219 (27.9%)	733 (93.4%)
Individual	34 (4.3%)	18 (2.3%)	52 (6.6%)
Total	548 (69.8%)	237 (30.2%)	785 (100%)

### **Discussion**

The Calgary Child Witness Court Preparation Program has tracked and documented close to 2129 referrals from 1992 to 2003. Much of the information

gathered by the program so far is demographic, enabling the program administrators to have a good sense of who is being referred to the program and who the typical court preparation referral is. This information is critical when developing program content and implementation strategies. The demographics of the children involved in the Court Preparation Program were fairly consistent with the children involved in other court preparation programs highlighted in the literature review, with some notable exceptions. Gender was almost evenly split with slightly more girls being referred to the program.

The gender breakdown for the Child Witness Project in London was similar with the present program serving slightly more girls than boys. However, this was in contrast to the overall sample of the Child Victim Witness Program in Nova Scotia where girls represented two thirds of the referrals. This is likely due to the differences in types of offences. The present program and the London-based program both experienced a larger portion of physical offences, which mostly boys were the victims of, whereas, the Nova Scotia program encountered a larger percentage of sexual offences (which females are mostly the victims of). The gender breakdown of the program will influence how the program is developed and implemented. For instance, the fairly equal gender split of the Calgary Child Witness Court Preparation Program reinforces the decision to have volunteers of both genders deliver the program.

Adolescents between the ages of 12-15 years of age made up the largest group of child victim/witness clients, with 42% of the participants in this age group. This particular demographic was also true for the Nova Scotia program with just over half of the program clients aged 12-15 years. The average age for the clients of the current study was slightly less than 12 years. This is lower than the average age for the clients of the London program with the average age being 13 years old. This is an interesting finding given that the bulk of the research literature and available resources for child witnesses focuses specifically to the needs and vulnerabilities of young children (Nova Scotia Department of Justice Victims' Services Division, 2000). The Calgary Child Witness Court Preparation Program will need to be mindful of their older adult population when devising program content and implementation.

The present study found that a majority of participants of the program were of Caucasian descent. Slightly less than 9% of participants were Aboriginal children. This is much higher than the percentage of people who are Aboriginal in Calgary according to the 2004 City of Calgary Civic Census Information, which states that Aboriginal persons make up 1.8% of the city population (The City of Calgary, 2004). The racial background of children prepared in the program and the referred-only children are similar. It is unclear how the program's racial breakdown compares to the racial breakdown of the criminal justice system in Calgary overall. In other words, are the victims/witness in Calgary mostly of Caucasian descent as well? Information on race or ethnicity was not available from the other two studies, making the opportunity for racial comparisons impossible.

The large majority of children who participated in the program were residing with one or both of their natural parents. This was also true for the referred-only children. A small percentage of children in the program were living in residential or group settings at the time of referral. Additional information, such as the prevalence of family breakdown and problems was not collected. The program in London collected this type of

information originally, but the most recent review (which is used in this paper) did not include information on family background. Information pertaining to the family may prove useful to the court preparation program as it may help the workers to understand some of the issues (i.e. family breakdown, additions, domestic violence, etc.) that the children may be experiencing in addition to their victimization. Further, information about living arrangements is critical when understanding and preparing children's support system.

Most of the children referred to and participated in the program were victims as opposed to witnesses of a criminal offence. A very small percentage of children were both victims and witnesses. The court preparation program in Nova Scotia found a similar breakdown in victim/witness status of children referred.

In terms of referrals, police made up the largest source with almost all referrals coming from them. Few referrals came from child welfare, Crown prosecutors, community organizations and parents. Likely this is a reflection of the nature of the victim/witness involvement in the criminal justice system – that police are one of the first responders to criminal actions, and therefore are the first to have an opportunity to make a referral to a court preparation program. The London-based program also noted that virtually all referrals came from the local police service. However, this was not the case in Nova Scotia, where Crown prosecutors made up the largest referral source; however, others appeared to be quite active in making referrals to the program (i.e. police, families, child welfare, and community organizations). This likely reflects the nature of the victim/witness's involvement with the criminal justice system.

In terms of types of offences, the current study identified that the Calgary Child Witness Court Preparation Program receives mostly referrals for physical and sexual offences, with physical offences outnumbering sexual offences slightly. The program also receives referrals for property-related offences (n = 349). "Other" offences (i.e., homicide, uttering threats, prostitution, public mischief, traffic offences, causing a disturbance, etc.), are referred but these offences combined only represent approximately 10% of referrals. In terms of comparisons with other programs, the Child Witness Project in London recently reviewed its operations and found that, like the present study, more referrals were made for physical offences than sexual offences. They note that is a "stark contrast from previous years" when sexual offences seem to predominate the program.

As mentioned previously, the evaluators suggest that the change may be due to a possible decline in the number of reported sexual abuse cases in Canada as noted in the Canadian Incidence Study of Child Abuse and Neglect (Trocmé et al., 2005). Nonetheless, it is unclear whether the referrals to both programs are a reflection of the actual number of physical and sexual assaults occurring and investigated by police, the major referral source for both programs. On the other hand, the program in Nova Scotia found the opposite – that most referrals were for sexual-based offences. Again, this could be more representative of the referrals – that Crown prosecutors in Nova Scotia believe that sexual offence victims are most in need of court preparation services.

The present study found that type of offence differed with gender. Girls were more likely to be victims of sexual offences than boys. This is consistent with the two

other studies which also found that girls were much more likely to be victims of sexual assault than boys. Further, this trend is consistent with the literature which suggests that girls are more likely to be victims of sexual abuse than boys. Boys were more likely to be victims of physical offences than girls; however, the difference was not as profound as in the case of sexual offences. The gender difference in offences was also noted in the London study. However, the Nova Scotia study notes that boys made up a *much* higher percentage of physical assault victims than girls (actual number and percentages were not available). Victimization in domestic violence cases was relatively equal for both genders.

The relationship between the victim/witness and accused was also examined in the present study. The results were similar to the other studies in that most of the children were victimized by people known to them. This is a common finding in the victimization literature. The present study found that most of the offenders were people known to but unrelated to the victim. Peers made up the largest group of offenders. In the study, peer-to-peer violence mostly involved physical violence against a male victim. This trend was also found in the London court preparation program study. Family members made up less than one quarter of the offenders – many of which perpetrated sexual-based offences against female victims. On the contrary, the Nova Scotia study found that most of the offenders were family members and trusted adults. The present study also found a large portion of stranger offenders, most of which seem to be perpetrating property-related offences against boys.

It appears that gender is associated with the type of victim/offender relationship. The study revealed that girls who participated in the program were more likely to be victimized by a family member or trusted adult than boys, while boys were more likely to be victimized by a peer. This relationship was statistically significant. Also, when victim/offender relationship is combined with gender and type of offence, it is revealed that girls are sexually victimized by trusted adults more than boys, whereas boys were physically assaulted by trusted adults. Boys were victimized more by strangers than girls. This may likely be due to the higher rates of property offences perpetrated against boys, which many involve strangers as the offenders. Taking into account all types of offences, peers victimized boys more than girls.

The study attempted to gain information about victim/witness involvement in the criminal justice system. This was not possible to develop an accurate description of children who testify in court, as the criminal justice system does not consistently track and document cases in which children testify. Therefore, it was not possible to determine if children who testify are significantly different than children who do not testify, either by age, gender, race, type of offence, and/or relationship to offender. Further, because of the lack of data, it is not possible to compare children who did/did not testify with children from other court preparation programs. When information was available on the reasons why children did not testify, it appears that most of the cases did not proceed to trial or that the offenders pled guilty, saving the children from having to testify. Both the London and Nova Scotia studies highlighted the fact that even those children who do not testify experience significant levels of stress and anxiety from the mere prospect of testifying. They note that the pre-trial waiting period one of the most stressful times for children (Nova Scotia Department of Justice Victims' Services Division, 2000; Child

Witness Project, 2002). Although, the present study did not document when guilty pleas are entered and do not know the number of children who wait needlessly while an offender enters a guilty plea late in the process, the present program can still benefit from the insight of the other programs.

The current study also attempted to examine court outcomes. Almost 21% of offences involving children who participated in the Calgary Child Witness Court Preparation Program did not proceed to trial, as charges were withdrawn, dismissed or stayed. This is consistent with other Canadian court preparation programs. For example, the Nova Scotia study noted that one quarter of referrals did not proceed to trial. Of the cases that did proceed in the present study, about a third resulted in a conviction and approximately 16% resulted in an acquittal. One quarter of offenders pled guilty, however, at what stage of the criminal process this occurred is not unknown. The study in London noted that over the recent years, the percentage of guilty pleas have been steadily rising, whereas the number of findings of guilt and acquittals has been decreasing. The actual percentages of convictions and acquittals were not given so it is not possible to compare it with the Calgary Child Witness Court Preparation Program. The Nova Scotia study found both a higher number of convictions and acquittals than the present study.

For the Calgary Child Witness Court Preparation Program, more than half of both sexual and physical offences resulted in a finding of guilt either through a conviction or the offender pleading guilty, although it appears that offenders of physical assault pled guilty more than sexual offenders. Also, more physical offences did not proceed to trial than sexual offences. This is an interesting finding as one might expect the opposite to be true. Also, for the physical assault referrals that proceeded to trial, approximately six percent of physical assault cases resulted in an acquittal, whereas almost one quarter of the sexual offences resulted in an acquittal.

The relationship between the type of offence (physical vs. sexual) and trial resolution (acquittal vs. conviction) was found to be statistically significantly indicating sexual offences were more likely to result in an acquittal than physical offences. Further, the study found that intrafamilial offenders were no more likely to be convicted than non-family members. Relationships between various demographic variables and trial resolution were also examined. Both gender and age of the victim/witness were not related to the acquittal or conviction of an offender.

Because there is no information from the criminal justice system on children's testimony, it is unclear how many children actually testify and therefore, not possible to determine the relationship of children's testimony with other key outcomes, such as court outcome and offender disposition. The study in Nova Scotia found that only slightly more cases resulted in a conviction when children testified. Such a finding makes one question if experiencing the stress and trauma of testifying is worth the effort, when the possibility of conviction is low.

For the children who attended the Calgary Child Witness Court Preparation Program, jail was the most common form of offender disposition (almost 40%). Less than one quarter of convicted offenders received a term of probation. The information that has been gathered at this point suggests that offender probation and incarceration is similar to other programs. In the present study, the length of probation ranged from 1 month to

three years, with the average length being slightly less than 16 months. As for jail time, the length of incarceration ranged from 1 month to 25<sup>16</sup> years, with the average jail time being approximately 15 months. Other dispositions included suspended sentences, fine/restitution, community service, and conditional or absolute discharges.

The present study also found that sexual offences resulted in a higher proportion of jail sentences than physical offences. Probation only varied slightly between sexual and physical offences, with sexual offences resulting in slightly more probation sentences. Further, it appears that much longer jail and probation sentences were given for sexual offences. This is likely because the sexual offenders were primarily adults, whereas a large portion of the physical assault offenders were the victims' peers, many of which were likely first-time offenders.

The study also examined the length of time that child victims/witnesses were involved in the criminal justice system. A large proportion of cases that proceeded to trial were in the criminal justice system for 7-12 months<sup>17</sup>. This may be similar to the program in Nova Scotia where the average length of time from arraignment to trial was just over nine months. The lengthy delay in the criminal justice system should have significant implications for the Calgary Child Witness Court Preparation Program. If they have not already, the program should develop strategies to deal with the trauma that children may experience while waiting to testify.

Almost no information was available within the justice system on the use of courtroom innovations such as courtroom screens and videotaped disclosures. This is key information to collect as it can provide information about the courtroom context in which the child is involved. For instance, the child may testify more accurately and effectively if they are protected by a courtroom screen. Also, the use of videotaped testimony may reduce the need to have a child testify, thereby reducing the secondary trauma that is frequently associated with testifying in court.

In terms of specific program involvement, the large majority of children who attended the program attended group sessions, as opposed to other formats including individual or booster sessions. In terms of gender and program involvement, boys and girls had similar rates of involvement in the all program components, including group, individual and booster sessions.

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<sup>16</sup> Three offenders were convicted of first degree murder.

<sup>17</sup> The actual length of time was not recorded in the data set.

## **Chapter Five: Stakeholders' Impressions of the Court Preparation Program**

This chapter documents feedback from a number of Calgary's key community stakeholders with respect to children testifying in court. The information is with respect to the implementation of the Court Preparation Program and its impact on the children/youth families and member of the justice system. The comments are considered separately depending on the roles of the stakeholders. As mentioned previously, we interviewed forty-one professional stakeholders to gather their impressions of the programs' structure, organization and efficacy with children testifying against perpetrators of abuse.

### **Stakeholders' Perceptions of the Accessibility of the Court Prep Program**

One key question for the current research was whether the Calgary Child Witness Court Preparation Program was considered accessible. The successes and challenges related to accessibility included: barriers to accessing the program, children not being referred to the program, the ease of making referrals to the program and accommodations made by the program for special needs.

Overall, satisfaction with the accessibility of the Court Preparation Program was high. Of the justice system respondents, six police officers and three Crown prosecutors who rated the Court Preparation Program's accessibility, all were satisfied or very satisfied. Similar to the justice system respondents, the six child welfare workers and eight therapists were also all satisfied or very satisfied. Of the eleven Court preparation facilitators, three did not know how accessible the Court Preparation Program was. The rest, except for one, were satisfied or very satisfied. Two police officers and one Crown prosecutor commented that accessibility was the aspect of the Court Preparation Program with which they were most satisfied. Four Court preparation facilitators were concerned that participants who were referred to the program never attended or dropped out because of accessibility.

#### *Scheduling and Timing*

Delays getting children into the Court Preparation Program because they had to wait for the next program to start were concerns for three respondents (a Crown prosecutor, a police officer and a therapist). One police officer was of the opinion that having to wait three or four weeks to get into the program was too long while another was satisfied with how often the program was offered. Conversely, one Court preparation facilitator was concerned about the children taking the program too early before their court date.

*It's not universally accessible if not offered immediately. (Crown Prosecutor)*

*It's beneficial to have Court Prep in place as soon as they know there is going to be a trial. We can help them through that process right away. Right before court they can have a refresher. (Court preparation facilitator)*

A therapist and a Crown prosecutor both suggested that there should be more groups offered.

*The Court Preparation Program should be offered more frequently. The program could have increased pressure when changes are made in the court system for*

*fast-tracking of cases. The program may need to be more intensive and of shorter duration in future. (Crown prosecutor)*

Several respondents noted the value of booster sessions when children had a long wait between attending the Court Preparation Program and going to court even though they were not asked specifically about this aspect (three therapists, two child welfare workers and three Court preparation facilitators).

*I had one teen girl who went three times in a row, and her parents were really rolling their eyes. She said, "I'm just not ready for it yet." She knew the curriculum as well as we did. (Court preparation facilitator)*

The time of day that the program is held was a barrier for some participants, according to two Court preparation facilitators and a therapist.

*They are always from 4:30 to 6:00. That's a busy time, after work, after school -- that's dinner time for kids. Having different options for parents and for kids might be better like morning or having it on a Saturday. (Court preparation facilitator)*

### *Location*

Overall, satisfaction with the location of the Court Preparation Program was somewhat lower than satisfaction with accessibility. Of the twelve justice system respondents, four were not familiar with the location and did not rate it. Of the other eight, all but two were satisfied or very satisfied with the location. The two dissatisfied respondents suggested that it should be located close to the C-train or public transportation whereas two others considered the access to public transportation to be fine. Similar to the justice system respondents, of the eleven therapists and child welfare workers who rated the location, most were satisfied. Though almost half (five) of the respondents commented that ideally it would be offered close to where families lived, six commented that the location is quite central. Like several therapists and child welfare workers, two Court preparation facilitators commented that it was a long way for some families to come, though three others saw it as a central location. The Court preparation facilitators were less satisfied than the other respondents with the location, with only four of the nine who responded being very satisfied and the other five dissatisfied.

*The last one I did, most of the kids were in the Northeast and that's a long way for parents to come. Maybe three satellite offices would work better. (Court preparation facilitator)*

*Transportation is a problem. Some families have very few resources to get their kids there. A lot of the teens are expected to come by bus. They might get there the first time or two and then they don't or something better comes up. Teen groups have high rates of attrition anyway and they may not particularly want to do this. (Court preparation facilitator)*

*How do we access the program for this child who lives an hour and a half away from the program? They have to understand what support the child needs and the resources to access the help. It can be as simple as, "I don't have the money to drive to Calgary to go to this program once a week. When I prosecuted in Calgary, I would ensure that every child was at least given the option to be*

*referred. But here in [rural community], it's more difficult. If I have a family that can access the program, absolutely there'd be a referral, but that's tough given the distance. (Crown prosecutor)*

Problems with parking were mentioned by four facilitators and two facilitators said that the program space is unattractive and inconvenient.

*Court Prep is offered (in) an office that's pretty hard to access and poor parking and the timing is not great. They make the attempt once and then you don't see them for another couple of sessions. (Court preparation facilitator)*

*The physical environment is grungy and you have to escort kids down the hallway to the bathroom and wait there for them. You have to do that for parents. You have to re-arrange chairs and furniture. It's a wonderful program, but I would locate it elsewhere. They do the best they can with what they've got, but it's kind of a disgrace. (Court preparation facilitator)*

*That building is difficult; there's no reception; people are chronically getting lost. It's quite frustrating; we're running around and looking for families. (Court preparation facilitator)*

### *Awareness of Program*

Lack of awareness of the Court Preparation Program by justice system staff, child welfare workers and the public was a concern of respondents both internal and external to the program. Seven respondents (two child welfare workers, two police officers, one Crown prosecutor, two therapists) mentioned that children who could benefit from the program are not being referred.

*We're quite unaware of that program and how to access it. (Crown prosecutor)*

*The Court Prep Program is hugely successful. It's not utilized as much as it should be because the only people aware of this program are in the child abuse unit and major crimes. People in the districts are not that aware. (Police officer)*

*Generally the child welfare worker would make the referral. There were times when the referral wasn't made or the worker was new. (Therapist)*

*I don't think people are aware of the program. To make sure new staff know about Court Prep, information should be disseminated more through an in-service team, memos to supervisors and pamphlets to area offices to be distributed periodically. (Child welfare worker)*

A child welfare worker and a police officer both suggested developing a brochure about the program to hand to parents. A police officer also suggested that police investigators should have more information about what the program does and the curriculum.

### *Referring to the Program*

All of the respondents who commented on the referral process described it as simple and that they had never had any problems. Five of the seven police officers and all of the Crown prosecutors commented on how easy the referral process was.

*As a police officer what's nice is that I could call and they would just take it over - I wouldn't have to worry about it. (Police officer)*

*They are so efficient there. They take care of everything. You don't have to do anything -- you just make a phone call and it's done. (Police officer)*

Three police officers said that the referral was done automatically by the Crown's office or the Victims' Assistance office when the case involved a child witness. Five therapists and one Court preparation facilitator/ child welfare worker said that the child welfare worker or the police usually had made the referral by the time the family came to them. Some therapists preferred having the parents contact the program directly.

*If we put in an occurrence report and it's going to go to trial, Victim Services would either run with it or would phone, "What do you think?" (Police officer)*

*Most of the kids here have already been referred or are in the process of being referred by their child welfare worker, so I haven't done a lot of direct referrals myself. They already seem to be plugged in. (Therapist)*

*I've never had to do it because it's been taken care of by the police. (Court preparation facilitator and child welfare worker)*

*I think the referrals are pretty automatic now: the police make referrals, we make referrals. (Child welfare worker)*

The program was described as being very accommodating to special circumstances or last minute requests, according to three respondents (one therapist, one child welfare worker and one Court preparation facilitator/ Child welfare worker).

*They have accommodated right, left and centre. Any time you find out two weeks in advance that a case is going to court, they'll do a one shot deal. (Therapist)*

*A worker said a child needed to go to court and I asked if she'd been prepped. No prep and she had a week before trial. I said, "Okay, here's Alice's number. They'll accommodate that even though it's out of the area." The worker came back and said, "It's set up for Tuesday." So that's incredible. (Court preparation facilitator/ Child welfare worker)*

*I was very impressed with the fact that people were made available if she had further questions. You don't always think of everything to ask right away or questions come down the road. (Child welfare worker)*

When asked about accessibility, one police officer and two Court preparation facilitators commented about themselves or other people having to leave a message and playing telephone tag when they called the Court Preparation Program, but they were all pleased with how quickly messages were returned.

*The only times I've ever phoned, I've had to leave a message and get a phone call back. But I've received a call back that day. (Police officer)*

## Stakeholders' Perception of Children Who Benefit Most from the Program

Any age of child could benefit from the program according to three-quarters (twenty-four) of the stakeholders (eight police officers, four Crown prosecutors, four child welfare workers, eight therapists, eight facilitators).

*I'd say from the time they can verbalize to their 18th birthday. You might have a 4-year-old that is hugely articulate and they get it or we've had a 6-year-old who's not even at a grade one level. (Police officer)*

*There are two distinct age groups: the young ones up to about 9 who are afraid of court. For the older ones, especially the girls, embarrassment comes into it, "I'm going to be called a liar. What's everybody going to think?" The need is there for both groups but for different reasons. (Police officer)*

*I think every child can benefit from it no matter what age. Even if they understand, they're older and they know what a court's about. If nothing else they're in the program with other children that are going to go through it and they get comfort from the fact that they're not alone. (Crown prosecutor)*

*I once referred a 20-year-old mentally handicapped young man. If he hadn't got that help, he couldn't have given the evidence. (Court preparation facilitator)*

*If a child has to give evidence, the program can help. If you have a verbal 3-year-old. There should be no limit. (Child welfare worker)*

Pre-schoolers benefit less than older children from the Court Preparation Program, according to eleven stakeholders (one police officer, one Crown prosecutor, three child welfare workers/therapists, six facilitators).

*If someone is 4 or 5 years old Court Prep doesn't make a big difference to them. By the time we get them into court they may not recall even having done it. (Police officer)*

*There have been 4- or 5-year-olds in some groups and that's really hard, because you've got a big age spread. Some of the concepts are a little harder to teach that four-year-old. (Court preparation facilitator)*

In contrast, two facilitators commented that some pre-schoolers do well:

*Ages 6 to 18 is where they shine. But I've done it with younger ones. The tools, like puppets, also work for younger kids. (Court preparation facilitator)*

The program is better suited to children 12 years of age and under than to teens, according to eight stakeholders (three police officers, two Crown prosecutors, one child welfare worker, two facilitators).

*All children can benefit from it, but the program is geared more for younger children. There's a lot of use of puppets for role playing and I've seen the boards that they put up where they put their fears on clouds to float up to the sky. That is obviously more directed to younger kids. (Crown prosecutor)*

*Three to 12 would be most suited. I have used it for some over 12, but generally they've pretty much been explained to about court. (Police officer)*

One child welfare worker noted that some older children who are less mature could benefit too and shouldn't be left out. Two facilitators commented on the high attrition for teens.

*I've had a group of teens who've left halfway through the first session and never returned. Obviously they didn't enjoy it. They probably didn't like the dynamics, the discussion. Maybe they thought it was too basic. Depending on what happened to them, maybe it was too emotionally overwhelming. (Court preparation facilitator)*

*They should work on the teen attrition problem and try and figure out what's not meeting their needs. They could ask the facilitators and the families why they don't attend. (Court preparation facilitator)*

One Crown prosecutor, one therapist and two facilitators thought that with changes, the program could be more appropriate for teenagers.

*I don't know if there's a more intermediate curriculum geared at older child victims, like teenagers. I suggest that would be helpful. (Crown prosecutor)*

One facilitator had heard many positive comments from teens.

*I mainly do the teen group and have consistently received comments about how it was good because they were treated like adults, not talked down to; they got their questions answered and were listened to. The critical thing for teens is having a lot of them. If you have half a dozen, they're going to talk to each other. (Court preparation facilitator)*

Two therapists, one child welfare worker and two facilitators commented that the groups work better when the children are grouped by age, in particular separating teens and younger children.

*The groups that have been most successful are when the age span isn't too great. A 16-year-old in the same class as a 10-year-old tends not to work as well as a group of 14 and 16-year-olds. When you have the littler ones, keeping them within three years of each other would be best. (Court preparation facilitator)*

A facilitator heard that some teens do not want to be with little kids, but for others it seems positive,

*Sometimes you get teens who don't want to be with little kids. If there are more little kids, teens think the program is for little kids even though we separate them out. For some others, it seems positive; everyone interprets it differently. (Court preparation facilitator)*

*You couldn't have a 6-year-old and a 14-year-old in the same group. You need to group them. With the older group you could do a lot more talking and information exchange whereas for the younger group, more practical stuff: what a courtroom looks like, where does the judge sit, what's his job, what do the lawyers do. That's good information for older kids too but they wouldn't want to focus on that as much because they feel like they already knew that. (Child welfare worker)*

*Older adolescents will sometimes say it's boring but that's because they're adolescents. Having an adolescent group or someone taking the adolescents aside and doing some separate work with them might help. (Therapist)*

Virtually all children benefit from the program according to 13 of the stakeholders (three police officers, two Crown prosecutors, two child welfare workers, four therapists, two facilitators). Some respondents identified the occasional child who did not benefit. Reasons for not benefiting included: having special needs or emotional problems, having trouble with the group experience, or difficulties related to their age. For six respondents (one Crown prosecutor, one therapist, one child welfare worker, three Court preparation facilitators) the only reason children had not benefited was that they did not attend enough sessions.

*Some children haven't been able to attend all of the program and so that wasn't helpful obviously. They've only had one or two of the sessions. I can't think of any child that hasn't benefited that's gone through the program. (Crown prosecutor)*

When asked about which participants did not benefit, several stakeholders recalled a very few who had not seemed to benefit from the program. The main reasons for these children not benefiting were their special needs, behavior problems and their emotional state. Of the justice respondents, two police officers and one Crown prosecutor each mentioned one child who had not benefited and one police officer referred to the odd one over the years who had not benefited due to their emotional state, or special needs. None blamed the program, though one said that something other than the program was needed to help a particular child.

*There was a little one that refused to go into court. Got to the doors and stopped. She wanted to be ready but she just couldn't deal with it. It wasn't a fault of the program. She was just hurt that bad and her fear couldn't be surmounted by Court Prep, or anybody else. Maybe years of therapy would help. (Police officer)*

*There was the odd one over the years, special needs cases, with learning disabilities or emotional trouble. You can't say that there is no hope for them, but you can't work miracles either. Some kids' evidence may not be any better or worse by going through the program. (Police officer)*

*I had one, a very rebellious, angry young lady. The program didn't hurt her, but I don't think it helped her get over her anger or understand what her purpose was. With someone like that, Court Prep introduces them to the setting and let's them know what's expected of them, but it does have its limitations. (Police officer)*

Two child welfare workers and two therapists commented on children not benefiting from the program. One of the child welfare workers had a child with a low IQ and cognitive difficulties. Three Court preparation facilitators described children with special needs that could not be met in the Court Preparation Program.

*I had two boys who were diagnosed with autism, and we had the dad come. They had a little speech, but very little, and I don't think they understood much. There needs to be something different for those kids. (Court preparation facilitator)*

One facilitator talked about children who needed a more in-depth program.

*Some kids need something more in-depth than a voluntary program for five weeks. Sometimes the police call and ask if they have attended, and we say, "Yes, but we don't think they're much more ahead than before because of their ability to absorb the information." (Court preparation facilitator)*

Two of the facilitators thought that some children might have benefited from one-on-one work.

*There've been a couple kids who were ADHD or ADD. They couldn't focus enough to get something out of it. I know Court Prep offers a one-to-one setting too. But sometimes we don't know about the kids' special needs to set that up ahead of time. (Court preparation facilitator)*

Two facilitators mentioned children with behavior problems.

*We've had a couple whose behavior has been very difficult. It's hard to gauge whether they learned anything. We try to put in an extra volunteer or pull them into the hallway to do more individual work. For kids who are highly traumatized or dangerous to other kids, we do them on their own. I had a sibling group of three whose mother had been murdered. They were really out of control. We had two volunteers and three kids. It was pretty hectic, especially with the one very angry child. I'm not sure how much he got out of it, but I think the younger ones did. (Court preparation facilitator)*

Some children struggle with the group experience, according to three Court preparation facilitators and two child welfare workers. Two of the Court preparation facilitators described girls who did not do well in the group.

*There was a girl who was 14 and there were boys in the group. Some people would argue that if she'd only had one-on-one, without the group experience, when she went to court, into that bigger setting, she might not do well. So we tried the group with her. In the end she dropped out. (Court preparation facilitator)*

*One teenage girl was very withdrawn. In group she just wasn't going to talk. She came to a couple of sessions and then just didn't come back. I think her case was so traumatic that she wasn't in a place to deal with that. We did talk with mom and let her know that doing an individual Court Prep session was available for her as well – just one-on-one. (Court preparation facilitator)*

When asked about whom they refer to the program, most stakeholders replied that they refer all children required to testify in court. Of the 11 justice respondents who answered this question (seven police officers and four Crown prosecutors), nine said referral was automatic, they referred all children who were testifying.

*The only criterion is a child having to testify in court - he's got to go. It's almost standard operating procedure that they would be referred. (Police officer)*

Two others, both police officers, commented that a referral depends on the age of the child, with one of the officers adding that the child's maturity, support system and level of fear are also criteria.

*If you're under 11 years, it's automatic. I don't believe their world view is big enough to understand what's going on. If somebody's 12 or 13 years old and very*

*mature and there is no fear from the child that this person has control over their life, perhaps they are capable of doing it on their own. But I've had a 13-year-old in Court Prep. She wasn't getting support from her parents, they were going through their own issues and weren't there for her. They need to understand what's going to be expected and how to present themselves. (Police officer)*

Of the eight therapists and five child welfare workers who responded, 12 make a referral for any child who had to testify, though five noted that usually a referral had already been made by child welfare or the police.

*Any child for sexual abuse or assault wanting to testify goes to Court Prep. Any child who wants to testify in a child welfare matter that has concerns or questions, if they want some help, we'll send. (Child welfare worker)*

In their paid job, six of the Court preparation facilitators (four child welfare workers, two agency staff) referred children to the Court Preparation Program. Five said that they would automatically refer; one said it would depend on the child.

*It's a no-brainer. If a kid has to give evidence as a victim or witness and it's a criminal matter, it's an automatic referral. I make sure it's going to be done or I do it myself. (Court preparation facilitator/ Child welfare worker)*

*I look at, first, is he going to be charged. If there are charges, I look at how will this traumatize the child? Sometimes with kids, especially 13 or 14, you can meet with them and get a pretty good sense if they're okay with testifying. With younger children, they need to go to the program; they need to know what's going to be happening. (Court preparation facilitator/ Child welfare worker)*

### **The Court Preparation Program Curriculum**

All of the stakeholders were satisfied or very satisfied with the curriculum. Of the 12 justice respondents (eight police officers and four Crown prosecutors) all were very satisfied. Several did not know the curriculum first hand, but based their rating on the knowledge the children they have worked with have gained from the program.

*I've been through this curriculum so many times and it just seems so thorough and complete. It's a very building block process. (Police officer)*

All of the child welfare workers and therapists who responded were satisfied or very satisfied with the curriculum, though, like the justice respondents, four were not familiar with the curriculum and could only rate it based on feedback from children and parents. All of the Court preparation facilitators were very satisfied with the curriculum.

*It's a really solid curriculum and there's lots of flexibility in how you do things. When I first walked into Court Prep and saw the manual, I thought you don't really need to know much as a facilitator to feel confident and comfortable walking through this. (Court preparation facilitator)*

The Court Preparation Program provides good basic information about the court process according to half (twenty-one) of the stakeholders (six police officers, three Crown prosecutors, four child welfare workers, eight therapists).

*They don't need to know anything fancy, just who goes to court, why we go to court, and tell the truth and the judge has to decide. If they know the terms that are used and the titles and positions, it's not so scary for them. (Police officer)*

*From what parents and kids tell me, it really seems to be geared towards the children so it's not scary, it's fun and interesting. I think it takes some of the mystery out of the court process and makes it more real for the kids. (Therapist)*

Two facilitators commented that the information provided helps the parents too.

*Bringing in somebody from the court system is really helpful to parents. I think that caregivers or parents are able to better support their children when they have been in the Court Prep program. (Court preparation facilitator)*

One police officer and one Court preparation facilitator commented that the Court Preparation Program curriculum ensures that the evidence is not tainted.

*The Court Prep program is pretty sterile. It's about NOT tainting the evidence or talking about the evidence. That's the number one rule – you don't talk about the case. (Police officer)*

*We don't contaminate the evidence. We're very clear. When children start mentioning something, we say, "Don't forget." (Court preparation facilitator)*

The program also addresses children's fears.

*The children talk about what they are afraid of: standing in front of the whole audience or that they will throw up in court. So you teach them that these are all natural and it's okay to be afraid. (Child welfare worker)*

Commonly mentioned as a key aspect of the Court Preparation Program was the courtroom tour, which familiarizes the children with the courtroom and helps them feel more comfortable. Nineteen stakeholders (three police officers, two Crown prosecutors, three child welfare workers, six therapists, five Court preparation facilitators) commented on the courtroom tour being positive.

*Children find it really fun and they like to see the courtroom. They find that helpful, because often their conception of what court is from American TV. It's quite glamorized and not particularly realistic. So they're given a chance to see what it's really like and that makes it a bit more real. (Therapist)*

*As a child welfare worker you can give a child quite a bit of support, but to take the time to go and review the courtroom setting, to explain who are the players in the courtroom. That's something we can't put into place. (Child welfare worker)*

*Every kid that went to the Court Prep program had more information after going through. It made them calmer. It made it easier to see the courtroom, know where they were going to sit, where the perpetrator was going to sit. (Therapist)*

*At the last session we do the tour of the courtroom. Lots of parents and kids have commented how helpful it has been – especially that night being able to take all that they've learned – like where everybody sits. (Court preparation facilitator)*

The opportunities to practice and to simulate the court experience, both in the regular sessions and in the mock trial as part of the courtroom tour, were mentioned by several respondents as important (two police officers, one Crown prosecutor, one therapist, one child welfare worker, six Court preparation facilitators).

*The role playing, the puppets, the books, the handouts, the tours. Anything that is simulated as much as possible would be the best strategy.* (Crown prosecutor)

*They take them to the courtroom. The court clerk shows them around. Some of them get to sit in the judge's chair. They also practice taking the witness stand and the court clerk gets them to sit, take an oath on the bible and asks them questions.* (Child welfare worker)

*One group of 8- to 11-year-olds really got into the process. When they advanced to the court for a tour they were able to stand in that role and practice. They were confident. It's powerful to see that.* (Court preparation facilitator)

The beneficial strategies suggested to children that they might use in court were mentioned by a number of respondents (three police officers, four therapists, four Court preparation facilitators).

*There's strategies like: "Don't look at your accused. You're telling your story to the judge, so look at him – he's usually a friendlier face."* (Police officer)

*After Court Prep they were calmer, they knew what to do. They'd come and tell me "I'm to stare here", "I'm going to do this" and "I can have a drink of water."* (Therapist)

*They seem to remember that they look at the judge, not at the accused. They really grasp those things: tell the truth, not let people mix them up, think about what they need to say, some basic core concepts.* (Court preparation facilitator)

Five Court preparation facilitators also identified teaching the children relaxation strategies as a helpful component of the Court Preparation Program.

### **The Group Experience**

The opportunity to learn about the court with other children who are going through the same experience is a valuable component of the Court Preparation Program, according to eight stakeholders (one police officer, one Crown prosecutor, three therapists, one child welfare worker, two Court preparation facilitators).

*It's still intimidating, but they know that other children have been there. They know that the judge has heard this type of evidence before.* (Crown prosecutor)

*One reason I would refer to a program like that is because it lets kids and families know they're not the only ones in that situation.* (Child welfare worker)

*Running it as a group is really important for these kids to get the sense that they are not the only ones who have gone through this experience.* (Therapist)

*The group is very positive because they see quickly that this happens to lots of kids. They're amazed that we might have two hundred kids a year. The judges have heard it all; the clerks have heard it all; there's nothing new. Bad things*

*happen to good people, and they're not alone in that. The older ones will say, "Even these little kids have to go to court." Some of them suck it up when these kids do a good job; they rise to the occasion too.* (Court preparation facilitator)

*Another kid about 8 or 9 years old was sexually abused by an uncle. One thing that really helped was to be with other kids because many kids really feel a sense of differentness and aloneness and stigmatization. They often feel that they were the only ones that this has ever happened to.* (Therapist)

### **Curriculum Changes Suggested**

Several stakeholders commented on aspects of the curriculum that they thought could be improved, including the length of the program, having curriculum geared for adolescents and updating the video. Three facilitators consider the program too long.

*The content of the curriculum is good, but once a week for six weeks is probably too long and too taxing. It's hard to fit into people's schedules and time constraints.* (Court preparation facilitator)

One facilitator commented on the length of the booster session.

*Very positive. If I have any negative it's that the booster is a little long—two and one half hours after school, especially if it's big.* (Court preparation facilitator)

One facilitator suggested that the material can be covered in a shorter period of time especially when the group is small. Another facilitator commented that there needs to be more material to run a six-week session.

*The content is good, however, sometimes there needs to be more content when it's the actual five- or six-week session. We do booster sessions for children who can't attend the five weeks or have a sudden court date and we're able to cover a lot of that material in two-and-a-half hours.* (Court preparation facilitator)

Six respondents (one Crown prosecutor, one police officer, four Court preparation facilitators) consider the curriculum good for younger children but suggested that there should also be a curriculum geared more for teens.

*They should work on the teen attrition problem and figure out what's not meeting their needs. Let's plan for them only coming once or twice and design a program that will touch the five most basic concepts that they need for the one or two times they come.* (Court preparation facilitator)

*If there's a more intermediate curriculum geared at older child victims, like teenagers for example, that would be helpful.* (Crown prosecutor)

*The critical thing for teens is having a lot of them. If you have half a dozen, you have a group, they're going to talk to each other; there will be interaction going on; if you have two or three, it's not enough.* (Court preparation facilitator)

Four respondents (three Court preparation facilitators, one police officer) commented that the video is dated, especially for teens.

*I'd love to see the video updated. The contents are good, but it is kind of dorky. Everything is relevant but the kids comment sometimes.* (Court preparation facilitator)

A Court preparation facilitator and a police officer both recommended that there be two videos, one for young kids and one for the older kids.

*One improvement would be the video. The video is fabulous. I've shown it to young kids. I've watched the video and have actually gotten something out of it as an adult. But I'd like to see the video updated because as good as it is, cartoons and cartoon heroes change. Maybe two videos would be best, one that appeals to the younger kids and one that appeals to older kids.* (Police officer)

*I do the teen groups, and I'm getting more and more comments about how the video's outdated and not cool. The movie has good concepts and information but we need to update it. It's really awful.* (Court preparation facilitator)

### **Relationships with Criminal Justice Professionals**

The stakeholders were asked how satisfied they were with respect to their liaison with criminal justice professionals. Of the 11 justice system respondents who answered this question (seven police officers and four Crown prosecutors), all of the Crown prosecutors and all but one police officer were satisfied or very satisfied. Three police officers commented on the communication from Court Preparation Program staff to police or the Crown prosecutor's office about which children had attended the program. One police officer appreciated that he got notice of how many sessions children had attended.

*I'd get a notice at the end saying they had attended how ever many sessions. That was good to know then I could tell the prosecutor. If they didn't show then I could phone mom and say, "Hey, why didn't you show up?"* (Police officer)

Another police officer was pleased that criminal justice professionals could contact the Court Preparation Program and find out whether a particular child had attended the program and was ready for court. In contrast, another police officer would like more information about which children have been through the program.

*I'd like to see some notification of what children have been through and which ones haven't yet.* (Police officer)

One police officer thought that the police investigators should take more responsibility for keeping in touch with the program.

*As investigators we could make more effort to keep in touch with the program as opposed to waiting for the program to keep in touch with us.* (Police officer)

Only one of the therapists and four of the six child welfare workers responding were familiar with the liaison between the Court Preparation Program and criminal justice professionals. All four of the child welfare workers were satisfied or very satisfied. The therapist who was very satisfied with the liaison with criminal justice professionals commented:

*In one case where I called up for consultation, they offered to have a Court Prep person talk with this particular lawyer. I think that was very good. (Therapist)*

More than half (seven) of the 11 Court preparation facilitators were satisfied or very satisfied with the Court Preparation Program's liaison with criminal justice professionals. Two other Court preparation facilitators who were unhappy with the liaison with the justice system thought that there should be a Crown prosecutor not a family lawyer presenting about the justice system.

*When we start the six-week session, Jonathan, a family lawyer, speaks. People are always very impressed with him and appreciate the information that he has to offer. But how come there is no Crown prosecutor to present what's going to happen? Why do we have someone from family law talking about what the criminal court system is going to be like? (Court preparation facilitator)*

*Especially for the parents who are really pissed off with the process—to have a Crown prosecutor there would be more meaningful for people and might allow the parents to get some venting done. (Court preparation facilitator)*

Two Court preparation facilitators considered it was helpful for parents to have the lawyer presenting at the parent meeting.

*Having the lawyer come the first night, the parent night, is really good. Parents have questions about the justice system: why do we have to do this and does the accused get to do that. Parents really enjoy that. (Court preparation facilitator)*

One Court preparation facilitator who was dissatisfied thought that the police needed to make more referrals to the program. One would like more feedback on how the children did in court, but acknowledged that is difficult when it takes months for the case to get to court. One Court preparation facilitator also suggested that there should be someone who lets the police officer or the Crown know how the child did in the program, but did not know whether this was done.

A police officer, a child welfare worker and three Court preparation facilitators commented that it is important for children to meet the Crown and were pleased that the Court Preparation Program helps facilitate this.

*I talk to a lot of parents in Court Prep about contacting the Crown prosecutor so that their children can meet beforehand. So they're not just talking to a stranger and the child knows who's going to be asking him questions. Lots of parents aren't aware that you can meet with the Crown. (Court preparation facilitator)*

*We really support the families, giving them tools. We encourage them to phone the Crown and insist on an appointment. Parents, even higher educated ones, are not clear what's expected of their child. We need to be clear on the expectations and that these children can do a very good job. (Court preparation facilitator)*

Another Court preparation facilitator noted that families often have difficulty getting in touch with the Crown and suggested that the Court Preparation Program do more to facilitate families making contact with the Crown. But she thought that the difficulty might be more an issue of the Crowns' heavy workload. One child welfare

worker thought that the Court Preparation program should facilitate liaison between the Crown and child welfare workers.

One police officer described a case in which the Court Preparation Program had done an excellent job of preparing children to meet the Crown prosecutor.

*I had two little guys that were very timid when I interviewed them. But the first time they met the Crown, after going through Court Prep, they were very confident and answered his questions. They understood that this man was representing them and was going to help them. (Police officer)*

One facilitator commented on the program's relationship with the courtroom clerks:

*We've got a good relationship with the courtroom clerks. Lynn has quite a bit of contact. She knows who's in those roles and who can support the program, so that's really positive. (Court preparation facilitator)*

### **Support for Children and Families**

When asked what they thought of the Court Preparation Program's support to children and families, all of the stakeholders (eight police officers, three Crown prosecutors, six child welfare workers, seven therapists, ten facilitators) were satisfied. One child welfare worker, one therapist and one facilitator were not aware what support was offered. Very few commented on their ratings.

*We give that positive feedback that they are likable, and help them to understand that they've got the strength to do it. It's finding some of that deep down strength that will allow them to stand up there. (Court preparation facilitator)*

The Court Preparation Program does a good job of supporting parents according to five of the justice respondents (two police officers and three Crown prosecutors).

*I had a lady who was very concerned about her daughter testifying against somebody very intimate to them. She attended the Court Prep program and came away feeling very comfortable about what's going to happen. (Police officer)*

*Sometimes the child's okay, but the parents need the value from the program. Courts are scary for kids as well as adults. (Police officer)*

One police officer mentioned that parents are relieved that there's a program for their children. Of the three child welfare workers and eight therapists who answered the question about support for parents, all were aware that the Court Preparation Program offers support to parents and most (eight) commented that parents find the program helpful.

*Parents look visibly relieved when I say there is a program for your child that will help them understand the court process and what they have to do. That helps calm parents down so they can focus on what they need to do in therapy. (Therapist)*

*Court Prep was positive for this girl and for the whole family. The information they got reduced their stress. It helped the mom be more supportive of her daughter. It wasn't a family member who was the perpetrator so it helped the dad*

*in terms of his anger. I think the spill-over to the parents was very positive; the information and the support that the child got. (Child welfare worker)*

*Court Prep has a huge impact on children and their parents. It's a big relief for parents, "Thank God, we have a resource that will help me and my child." It's very hard; parents don't know what to say or do. (Child welfare worker)*

*The foster parent who went through with the child thought the program was wonderful. She hadn't had an experience with the court system either, so it was good for her to receive information on what can't be talked about and how not to contaminate. (Child welfare worker)*

*Lots of times the moms would be involved in the courts as well. That was really hard for them. If the moms were able to go to one or two sessions, I always thought that they fared better. (Therapist)*

Five Court preparation facilitators commented about how the Court Preparation Program supports parents.

*Parents come to the parent night with all sorts of questions and they leave feeling good. Jonathan is top notch at explaining things and reassuring them that they feel like it's all in good hands when they leave that night. They're feeling much more informed about how to support their child. (Court preparation facilitator)*

Some stakeholders were asked if there was enough support available for parents, both inside and outside of the Court Preparation Program. The three Crown prosecutors and three police officers who responded all believe that parents need more support. One Crown prosecutor argued that there is enough support for people who can access it.

*There is although again you have to take some initiative in that regard. The help is there but you have to make the connection yourself. (Crown prosecutor)*

Of the three child welfare workers and eight therapists, half (six) said that there is not enough support for parents.

*I would say probably not. I think we forget how totally devastating this can be to the non-offending parent, particularly if it's been an intact relationship when the disclosure comes. For that parent, their total lifestyle changes sometimes and I don't think the support is there. (Child welfare worker)*

One therapist was concerned about families who do not get connected to services.

*If people do get hooked into the system there's a fair bit of support, though, unfortunately, there are waiting lists for programs like ours. I'm concerned about those who don't get hooked into services. It's the people who have the resources or the wherewithal to ask for service that get service. A lot of families don't even know that they can ask or where to go to get services. (Therapist)*

Two therapists were concerned that there is not enough support for parents who have to testify.

*There should be more for parents who have to testify. With one case, the mom also had to testify. There was an evening session with Court Prep, but I don't*

*think they ever talked with her about her having to testify and what to do. It was more about how to support the children. (Therapist)*

*The Court Prep program provides support for the parents but in terms of guidance through the legal process outside of that, no. A lot of parents phone us up and say, "What is going on? Why aren't we getting phone calls?" A lot of parents are reluctant to phone the police to find out what's happening. More could be done to help them understand what comes next. (Therapist)*

One facilitator who was also a child welfare worker had a client who needed a lot of support.

*The kids were referred—domestic assault on mom and the kids were in my group. Mom was a nice lady but low functioning. She asked questions that led me to believe that her level of understanding about the legal process, even after having been given information, was about as good as your average elementary school kid. You can try to explain it to them, but often times they don't get it. (Child welfare worker/ Court preparation facilitator)*

A child welfare worker commented that the child welfare system tries to support parents, but often fails.

*From our system, no. Files are transferred from worker to worker. An investigator will be involved early to determine protection needs, and then it goes to a case manager, and the case managers change. There are lots of system glitches. Sometimes we do a really good job and sometimes we don't. (Child welfare worker)*

Of the seven Court preparation facilitators who responded to the question about whether there's enough support to parents in and outside the Court Preparation Program, all but one said there was not enough support. To meet parents' needs for support, several stakeholders suggested that more support be offered either by the Court Preparation Program or by other services. Eight stakeholders (three facilitators, four therapists, one child welfare worker) recommended that the Court Preparation Program provide more support to parents.

*My thought would be ongoing support to parents. (Child welfare worker)*

*I think there could be a parent support group, just a casual one, with people who have experience going through the court process and they could support people who are about to go through the process. (Child welfare worker)*

Three facilitators and one therapist suggested the Court Preparation Program offer support for parents through a program run parallel to the program for children.

*Often parents lack knowledge around what the system is and how it works. A parent group running concurrently with the children's group, a similar program but geared towards the parents' needs might be a good idea. (Therapist)*

*Maybe parents need support when the children are going through Court Prep, in a different room with different facilitators. They come to the parent night, but they really don't have a clue what their child is going through, and they have to answer questions from their children. It would be beneficial to have a parents'*

*program run parallel to the children's program because parents probably have the same fears as the children. (Court preparation facilitator)*

Another facilitator suggested a peer support program supported by the Court Preparation Program. One therapist and one police officer argued that parents should be more involved in the Court Preparation Program.

*Providing more for the parents, even having the parent being part of the exercises so that they can reinforce it back at home. (Therapist)*

*The parents should become involved. Not that they have to sit through the whole thing but parents have to be included to understand what's going on. They're the most important support a child has. Most of our offences aren't horrific, body damaging offences, most are touches. Sometimes the parents' reaction creates more problems for the child than what's actually happened. (Police officer)*

One Crown prosecutor believes that parents need more support, but recommended that the Court Preparation Program should look at the costs and benefits as well as what other professionals are already providing support to parents before deciding whether to provide support to parents themselves.

*Parents need support. Maybe not within Court Prep but within the criminal justice system. Maybe a Victim's Assistance worker or somebody that can deal with their fears and the adjournment issue because it's really frustrating for parents. They need a key person to talk to about that and support them because their anxiety gets passed onto the kids. (Therapist)*

One therapist, not commenting specifically on the follow-up provided by the Court Preparation Program, said follow-up support is needed.

*Professionals often forget about follow up. A lot of emphasis is placed at the beginning on preparation for court, but what is it like after you've gone to court. What's it like six months down the road when your ex-husband is still in prison and maybe you don't have as much money as you did before? (Therapist)*

The respondents were asked how satisfied they were with follow-up support to children and families provided by the Court Preparation Program. Lack of awareness of the follow-up support offered to families was the case with over half of respondents, (seven of the 12 justice respondents and eight of the 14 child welfare workers and therapists, seven of the 11 facilitators). Of the stakeholders who were aware of the follow-up support, almost all (five justice respondents, six therapists and child welfare workers) were satisfied or very satisfied.

*Obviously the program and the workers keep in contact with families and the victims and the witnesses quite well. (Police officer)*

*The follow-up I've seen has been good, but sometimes it's been shaky. (Child welfare worker)*

Two therapists commented that the families they've worked with have not received follow-up support.

*I'm not aware of follow up for families. For the families that I have seen, once it's over, it's over. I'm not familiar with whether they do any follow up. (Therapist)*

*I don't know if the child had follow-up support. That would be helpful if they had a key person they could go back to because not all kids do well in groups and sometimes they don't or can't express their questions. (Therapist)*

Though over half (seven) of the 11 facilitators were not aware of any follow-up support, one of those mentioned the program calling families for boosters and another mentioned families calling facilitators.

*I know that people get call back for boosters, but I don't know how it's organized, and I have no idea how effective it is. (Court preparation facilitator)*

Three facilitators were satisfied or very satisfied with the follow-up support. Three other facilitators had suggestions on what kind of follow-up support the program could offer.

*It's a great program and the content is really good but it would be nice to see follow up even after court. Following up with the parents and asking questions about the group. "What could have been done differently for your child? How did they do?" I know it's difficult for parents to call the Court Prep office because there is nobody to answer the phone. (Court preparation facilitator)*

*Offer more follow-up support. Families might be interested because you've developed a relationship with them where the kid is hugging you and the parents are grateful. If you could say, "I'd be happy to come to court with you," that could be positive. I don't know if the logistics would allow for that. Even if someone could call them ahead of court and say, "I know she's going to court next week and I wish you all the best." That's a very large volunteer commitment and I don't really see it as viable on a volunteer basis. Most of the volunteers work full-time. (Court preparation facilitator)*

One facilitator recommended follow-up support, but not by the Court Preparation Program necessarily:

*I was always persistent in calling mom and seeing how things were going from the time that the charge was laid until trial. You need someone calling once a month (to) check up on the family and see how things are. In this case she wouldn't call me but I'd call and she'd talk. Having one person involved with the family through the whole process is helpful as well. (Court preparation facilitator)*

### **Updating Families on Court Dates and Outcomes**

Updating families on court dates and outcomes of their cases is another related program component. A high proportion of the key stakeholders were not aware of any administrative follow-up: of the 12 justice respondents, 10 did not know about any administrative follow-up.

The two police officers who were familiar with the administrative follow-up commented on how the Court Preparation Program staff had informed them of which children had attended the program, not administrative follow-up with families.

The five child welfare workers were aware of administrative follow-up, though only one had a family who had received follow-up about court outcomes, and two others commented that families had not received follow-up. Three of the child welfare workers were satisfied and two were mildly dissatisfied. One suggested that the follow-up should be more timely. None of the eight therapists were aware of administrative follow-up and two of them added that the families they worked with had not received any. One suggested that this type of follow-up would be helpful to families.

*I didn't know that kind of assistance would come from Court Prep. That's one of the huge frustrations from families, not knowing where things are at. We encourage them to be in touch with the detectives and Crown prosecutors. A lot of times families feel left hanging and never hear from anyone. (Therapist)*

Of the ten Court preparation facilitators who responded, five were not aware of any administrative follow-up. Of the other five, three were satisfied and two were dissatisfied.

*We're probably not as strong in that area and I'm not sure why that's difficult. Again I think it speaks to the volume and the constant adjournments and people forgetting who these kids are. (Court preparation facilitator)*

### **The Court Preparation Program Staff and Facilitators**

Stakeholders were asked how satisfied they were with the service they had received from the Court Preparation Program staff and the friendliness of staff. Of the 11 justice system respondents who answered this question, all were satisfied or very satisfied. They made relatively few comments with respect to this issue, however.

*I've been notified a number a times in terms of what's going on with the kids. If I ever phone and ask for information, it's always readily available. (Police officer)*

All eight therapists and six child welfare workers who responded rated service and friendliness very high, similar to the justice system respondents. One therapist was pleased that she was able to consult with the facilitators.

*I have consulted the program to get a sense of what the child is going to be going through, to discuss issues for a particular child and how those are addressed by the program and if they're not then what we can do perhaps together. (Therapist)*

Two therapists commented on the dedication of the volunteer facilitators.

*I've received really positive feedback from parents, feeling that their children's needs are being looked after and that people care enough to prepare their children for this really scary thing they have to do. (Therapist)*

*Some parents commented on the dedication of the volunteers running the program, that they were very sensitive to their concerns, and that the kids often really enjoyed going. (Therapist)*

Similarly, with the 12 Court preparation facilitators responding, ratings were high. Aside from one facilitator who stated the people were “very helpful and very supportive”, the only comments were from two facilitators who said that the program could seem disorganized at times, but in general the service and friendliness were good.

*All the facilitators try to make people comfortable and welcome. As for service, sometimes there's confusion, "We couldn't find this place, we couldn't contact the worker, we don't have that form." But once they get there they find the facilitators are accessible and friendly. (Court preparation facilitator)*

The children and parents also commented that they liked the presenters (one police officer, one child welfare worker, two therapists, two facilitators).

*I mainly do the teen group and have consistently received comments about how it was good because they were treated like adults, not talked down to; they got their questions answered and were listened to. (Court preparation facilitator)*

*It was fun, they met other people and it was supportive. Whoever facilitated came across as supportive, kind people who knew what they were talking about. They felt less frightened about having to go to court. (Therapist)*

As well as asking respondents about the service they received from staff and how friendly staff were, they were asked about the competence of the facilitators. All of the 12 justice system respondents were satisfied or very satisfied with the competence of the facilitators. Three of the eight police officers had no direct contact with the facilitators and were basing their rating on how much they had observed the children learning from the program or feedback from parents.

*I've not sat in on sessions with the kids but by the time they've finished the program, they know the curriculum. (Police officer)*

One police officer thought the system of new facilitators being matched with experienced facilitators was a good practice.

*When they have a new facilitator, they always facilitate with another experienced member. You have a senior person mentoring somebody along. (Police officer)*

Aside from four of the 14 child welfare workers and therapists who did not know enough about the facilitators to answer this question, like the justice system respondents, the other 10 child welfare workers and therapists rated the facilitators very highly. Three of them based their ratings on positive feedback from children or parents; two others had not heard any negative feedback. For two therapists, one aspect of the program with which they were most satisfied was the competence of the facilitators.

The nine Court preparation facilitators who responded to this question were also satisfied or very satisfied with the competence of their fellow facilitators. One commented on the quality of the training. A child and her mother had commented favourably on the facilitators.

*They spoke a lot about the facilitators, feeling that they were very knowledgeable and skilled and able to answer all their questions. (Court preparation facilitator)*

Another facilitator, however, recommended ongoing training for program facilitators.

*We could definitely have more ongoing training and support between the facilitators. Even an opportunity to connect with other resources, like the police or Crown would be good. (Court preparation facilitator)*

## Stakeholders' Perceptions – Outcomes and Feedback from Families

The stakeholders were asked whether they believed that the Court Preparation Program had an impact on children's ability to testify. All respondents to this question indicated that the program had a positive impact and most commented that the impact was considerable. All of the justice respondents (four police officers and four Crown prosecutors) said that the Court Preparation Program had an impact on children's ability to testify.

*Court Prep is a huge resource. It's the difference between making a child witness credible or not. If a kid is not a credible witness, the hope is that Court Prep will make them more comfortable so they can tell their story and be a better witness. (Police officer)*

*I had a girl about fifteen. We put her through to boost her a bit because she was having real problems and I wasn't certain she was going to make it. She actually did testify. I think it did have an impact on her. (Police officer)*

One police officer stated that with all the other pressures the child is under before going to court, the Court Preparation Program gives them the confidence to testify.

*There are a lot of pressures on kids, like non-offending parents that won't back their child because the case is tearing the family apart. Court Prep gives children the confidence to testify which they otherwise wouldn't have. (Police officer)*

Some children need the Court Preparation Program to be able to testify at all, according to one Crown prosecutor:

*I've had children too traumatized to communicate the evidence. They've told me or the police but once they get into the courtroom, they just can't talk about it. We have a test under Section 16 of the Canada Evidence Act where the child has to have the ability to communicate the evidence. If we don't get past that step then that's the end of the case. That's where preparation is so helpful. Preparation's going to make or break our ability to meet the test. (Crown prosecutor)*

*One of my cases was a very 'A' personality kid. How well would she have done without Court Prep? She might have been just as bubbly, but not in control. In court she looked serious – she had to tell the judge the story and she had to tell the truth. (Police officer)*

*I tracked this girl for at least a year before the case finally went to Queen's Bench. Without Court Prep she would never have made it, because it was his word against hers and it was about her credibility on the stand. (Police officer)*

All five child welfare workers and eight therapists who responded to this question perceived the Court Preparation Program as having had an impact on children's ability to testify.

*To send a child unprepared to court is ludicrous. We go to court all the time and many of us are anxious. It's had a huge impact on kids' preparedness to give evidence and have a little confidence or methods of dealing with stress. (Child welfare worker)*

*Absolutely. I think that it's essential. If it wasn't there, it would be incredibly difficult for both children and families. I testify in family court all the time and I still get apprehensive when I testify and I'm an adult. (Therapist)*

A therapist gave an example of a girl who might not have testified at all if she had not attended the Court Preparation Program.

*A 9-year-old girl was referred after disclosing sexual abuse by a family friend. She did not want to testify. But after going through Court Prep, she felt that she could. If there hadn't been Court Prep, I don't think that she would've been able to get through it. I sat through her testimony and I was very impressed. What made the difference was the familiarity. Court Prep makes it concrete. She also saw other kids who had had the same kinds of things happen to them. (Therapist)*

*I worked with a child who did Court Prep twice. She was getting more and more experience and confidence. Her self-esteem was so high she started helping other children in group. She testified and did an excellent job. (Child welfare worker)*

*For one girl going through Court Prep built her confidence so that she was clear in her mind what she wanted to say and she could say it. (Child welfare worker)*

Nine Court preparation facilitators also noted that the program had an impact on children's ability to testify.

*I had feedback from a defence lawyer that the kids have really improved who come through Court Prep, but some of the parents are still pretty shaky. He told me it's making his job much more difficult. That was a big accolade I thought. (Court preparation facilitator)*

One Court preparation facilitator, who was also a child welfare worker, described a child on her caseload that had one court experience without having been through Court Prep, but her second court appearance, after going through the program, was much more positive.

*A little girl, 7 or 8, was too traumatized to give evidence. On Friday before court, she said she couldn't do it, she was too scared. Any other child I've had involvement with, I made sure had Court Prep. This child was my learning process. She couldn't testify the first time. But she had to give evidence a second time and had been through Court Prep. She worried that her mom was going to go to jail, but she knew to tell the truth and let the judge decide what happens. She gave her evidence and came out feeling quite powerful. When I saw that she had the capacity to do a great job that second time I realized that she could have done it the first time if the system had supported her. (Court preparation facilitator)*

*One little girl was 6 and we didn't think she was getting much out of Court Prep. She hid under the table and ran around. But her foster parent and the Crown prosecutor said she was amazing in court. They thought the mock trial very helpful. We had given her the story of three kittens and then took the story away and did a cross-examination over the kittens. We were trying to get her mixed up about the colors and number of kittens, and she was just solid, unshakable. When she went to court, she said, "They gave me a story and they tried to mix me up, and they couldn't. They kept saying that there were four kittens, and I knew there*

*were only three.” Then she proceeded to talk about what happened to her with the same result; she knew exactly what had happened. (Court preparation facilitator)*

### **Stakeholder Overall Satisfaction with the Utility of Court Preparation**

Six police officers and three Crown prosecutors commented on how learning about the court process helped children testify in court. From their perspectives, this knowledge increases children’s confidence and reduces their anxiety.

*It’s absolutely crucial to have that preparation. The program reduces their apprehension and fear and makes it easier for them to testify. I know that child who’s been to Court Prep has the basics. I can get right to where I should be spending my time, going through their evidence. (Crown prosecutor)*

*Fear is often caused by the unknown. Court Prep helps them clear up all the unknowns about the process, the environment and what’s required of them. It empowers victims to be able to tell their story. (Police officer)*

*In some cases we’ve put the child into the program between the preliminary inquiry and the trial, which is not ideal. There’s been a huge difference in their ability to testify at the preliminary inquiry and then at the trial, after having gone through the program. (Crown prosecutor)*

Six child welfare workers and seven therapists also commented on the utility of the Court Preparation Program teaching children about the court process.

*It helps normalize it. Imagine walking into a courtroom for the first time in your little life and it being a completely unfamiliar place. They’re taken to the courtroom and become familiar with it and the process. They do it with other children. They know they’re not the only child going through this. (Therapist)*

*It prepares them for court. It talks about the truth and what to do in specific circumstances or if they don’t know an answer to a question what they can say or do. The more prepared they are, the better they are going to do because they’ll be more relaxed. It makes their testimony more credible and more valid. (Therapist)*

Like the other respondents, eight Court preparation facilitators were of the opinion that having information about the court process helped children testify.

One police officer has heard from parents that their children were less anxious after taking the program, not just about court, but in other areas of their lives.

*I have received feedback from parents who said that they “had their child back”, especially early teens. They are back in school again, with their friends, they are not isolated, not feeling down or suicidal, as they were before. They are feeling validated and supported. (Police officer)*

*One child was very quiet and timid. She gave a detailed description of a sexual assault and it was absolutely believable. We got this kid to meet with the Crown and she told the Crown absolutely nothing. But we got Court Prep involved. By court this kid was confident and willing to tell her story. She was a different girl. She was excited about going as opposed to being fearful. There was no doubt in*

*our minds that if that case had gone to trial, she would have been an excellent witness. (Police officer)*

*One soft-spoken little girl I had go through Court Prep, testified and did very well. She was victimized a second time and her sister also. In meeting the prosecutor, the older sister didn't hold up well, so the prosecutor didn't go to court. I thought we still had a strong case. When I called the victims, the older sister had been through Court Prep and they wanted to go to court. Maybe having gone through, she felt the comfort and confidence to go ahead. (Police officer)*

Both child welfare workers (five) and therapists (six) commented that the information the children were provided helped reduce their anxiety about court.

*A girl who was 10, I saw prior to her attending the program and then after. After attending, her anxiety and stress about the court and testifying were much lower. So a fairly dramatic difference with that young girl. She did quite well in court. I think it allowed her to tell her story because all of the other anxieties were gone and she felt clearer about her role. (Therapist)*

Five facilitators consider that the program increases children's confidence and four said that the program reduced anxiety. According to three facilitators, practicing in the Court Preparation Program helped children testify.

*You see that when they do their mock evidence. They thought it was going to be a breeze; just our little company and they get up there and find it stressful. But they focus and they feel so successful. Then they realize, "I just have to do the same in real court. I think it has a tremendous impact. (Court preparation facilitator)*

*One 7-year-old girl was very quiet when she started Court Prep. You could barely hear her and she would put her head down and her fingers in front of her mouth. We worked on "stand tall" and talk in a loud voice. I saw her in court, standing very erect and her voice was quite loud. Her whole demeanor was different. She wanted to be heard and she was going to make sure that it happened. I'm not saying that she wasn't still afraid, but to get up there and speak loud after what happened to her was very positive. (Court preparation facilitator)*

A police officer commented that a 14 year old participant referred her friend to the program:

*One 14-year-old girl was able to identify that her friend was a victim of sexual assault and attempted to get her involved in Court Prep. So we have victims referring other victims. (Police officer)*

### **Benefits to Parents of Children in the Court Preparation Program**

Three police officers and two Crown prosecutors perceived that the Court Preparation Program helps parents be more relaxed and less anxious, which in turn often helps the child testify.

*Court Prep is absolutely vital in preparing children for testifying. If they understand the process and the child or family is in counselling, that calms everyone down, removes a lot of fear and apprehension. The child becomes a better witness and our likelihood of a conviction goes up. (Crown prosecutor)*

Two child welfare workers and four therapists also commented that the Court Preparation Program helps parents by giving them information and reducing their anxiety.

*Court Prep helps reduce parents' stress too. That has a positive impact on the child's anxiety. A lot of parents are really worked up themselves. It's hard for them to be a calming influence. With this girl, her mother was able to settle a little bit more. Then, through Court Prep, the mother had better ideas about how she could support her daughter. (Therapist)*

*The Court Prep Program works with the parents as well. It helps them know what their child is going to be going through and reassures them about their child's safety. I think it helps reduce the entire family's stress. (Therapist)*

*Children are better witnesses because they're better prepared and caregivers or parents who have been to the Court Prep Program are able to better support their children. (Court preparation facilitator)*

### **Feedback from Parents and Children**

The feedback that parents and children provided to the key stakeholders was very positive according to all those who responded to this question (seven police officers, four Crown prosecutors, six child welfare workers, seven therapists, twelve facilitators). One of the frequent comments from parents and children was that the children were feeling more positive about going to court and worrying less (one police officer, one Crown prosecutor, three child welfare workers, two therapists, four facilitators).

*A friend and her child, who was mugged at the LRT, found it very helpful. My friend told me how fabulous the facilitators were, how they were feeling much more capable of coping and were much less angry about having to go to court. They spoke a lot about the facilitators, that they were knowledgeable and skilled and able to answer all their questions. She had a chance to practice the skills and there were several other teens there as well. (Court preparation facilitator)*

*The comments were thankful that the program was there, the people were great. They felt better after about knowing the court date was coming and having seen the courtroom and talked to the people and just seeing other kids there and knowing that other kids had to do this too. (Police officer)*

*Lots of kids say at the end, "Thanks, and I'm not as anxious." (Court preparation facilitator)*

*I have a daughter who does the same thing and she said that the kids give rave reviews. She found that amazing. But I told her they're excited because this changes the way they go think about things. (Court preparation facilitator)*

The stakeholders also heard from parents and children that, because of the information they had received, the child knew what to expect from court (one police officer, two child welfare workers, three therapists, two facilitators).

*Children find it really fun and they like to see the courtroom. They find that helpful, because often their conception of what court is from American TV. It's*

*quite glamorized and not particularly realistic. So they're given a chance to see what it's really like and that makes it a bit more real. (Therapist)*

*Some parents commented on the dedication of the volunteers running the program. They were very sensitive to their concerns, the kids often really enjoyed going. Part of that is the social component; that it is with other kids. Probably the major feedback from kids is that it really gave them a sense of what it was going to be like, that it was no longer as mysterious. (Therapist)*

*Very positive. This child wasn't nervous, she knew what to expect and she felt supported. She understood a lot more what the courtroom was going to look like, so when she went into court, it wasn't frightening. (Child welfare worker)*

Other feedback from children and parents was that the children had fun (one Crown prosecutor, four therapists).

*The one child I had said it was fun for her. I think that's really important, that it's a fun thing for kids. (Therapist)*

*All the children that I've talked to have enjoyed it. They think it was fun and I can see that they're more comfortable. (Crown prosecutor)*

The children and parents also commented that they liked the presenters (one police officer, one child welfare worker, two therapists, two facilitators).

*I mainly do the teen group and have consistently received comments about how it was good because they were treated like adults, not talked down to; they got their questions answered and were listened to. (Court preparation facilitator)*

*It was fun, they met other people and it was supportive. Whoever facilitated came across as supportive, kind people who knew what they were talking about. They felt less frightened about having to go to court. (Therapist)*

A police officer commented that a 14 year old participant referred her friend to the program:

*One 14-year-old girl was able to identify that her friend was a victim of sexual assault and attempted to get her involved in Court Prep. So we have victims referring other victims. (Police officer)*

Parents also told the stakeholders that they were happy that their children were getting the information and worrying less about going to court (one child welfare worker, four therapists, five facilitators).

*Parents were grateful for the support for their child. Meeting other parents was helpful for them. They felt less anxious about the process. (Therapist)*

*Parents gave really positive feedback, that their children's needs are being looked after, that people care enough to prepare their children for this really scary thing. (Therapist)*

*They've all enjoyed seeing their child doing the mock trial. The kids do well so the parents are proud. We have parents who start with some skepticism, but I've never had a parent say it was a waste of time. (Court preparation facilitator)*

Parents were also pleased to get information themselves (two child welfare workers, one therapist, two facilitators).

*Both parents whose kids went through were happy that they had something like that to prepare the kids for the court experience. Also to prepare them because they had quite a few questions about how everything worked. So I think it was really helpful for them to allay some of that anxiety. (Therapist)*

*Parents appreciate having information available to them: what to wear, how to support their child without messing around with the case. (Child welfare worker)*

*The foster parent who went through Court Prep thought it was wonderful. She hadn't any experience with court, so it was good to receive information on what can't be talked about and how not to contaminate. (Child welfare worker)*

In summary, the 41 key stakeholders had considerable positive feedback for the Court Preparation Program, perceiving it as an invaluable support for children that need to testify in court, their parents and the justice system. They also made several suggestions to improve the accessibility to and implementation of the program.

## **Chapter Six: Conclusions and Recommendations**

This chapter concludes the report by summarizing the findings, describing the limitations and strengths of the research and proposing recommendations for consideration by the Calgary Child Witness Court Preparation Program with respect to both program and future research. A number of the recommendations have already been implemented: these are also presented.

### **The Results in Context with the Research Literature**

The results of the current file review and the qualitative interviews with 41 key justice and community stakeholders are consistent with the literature presented in the two chapters that review the published research.

The stresses and trauma experienced by children and youth both before and during their testimony are well documented by both the literature and the stakeholders in the current study (Edelstein et al., 2002; Sas & Cunningham, 1995). This is especially so when the accused is a family member or trusted adult and the child or youth must face them in court (Goodman et al., 1992; Lipovsky, et al., 1991; Whitcomb, Shapiro & Stellwagen, 1985).

Although legislation and innovations such as the use of screens/shields, closed courtrooms and videotaped testimony have been proposed to facilitate children providing accurate evidence in considering their developmental stage, the extent to which these strategies are utilized is not readily available (Lipovsky, 1994; Sas et al., 1991; Saywitz & Goodman, 1996).

Court preparation programs for children and youth were originally developed in the 1990's to prepare children to testify whether or not any specialized strategies were used (Child Witness Project, 2002). While there are many court preparation programs operating throughout North America, it is unclear how many have been evaluated to determine their impact on children and court outcomes. Two programs with recently conducted evaluations (both unpublished), were Canadian: the Child Witness Project operated by the London Family Court Clinic (Sas, Hurley, Hatch, Malla & Dick, 1993) and the Child Victim Witness Program operated through the Victims' Services Division of the Nova Scotia Department of Justice.

These evaluations and the writing of other authors confirm that to bring a child into a complex, potentially stressful experience without preparing them for what to expect would be unthinkable. According to several, the more preparation the child witness can be given the better (Perry & Wrightsman, 1991; Saywitz & Snyder, 1993).

The interviews with key community and justice stakeholders in the current evaluation confirm the importance of the Calgary Child Witness Court Preparation Program in making a substantial difference for children and youth who must testify. The many case stories and descriptions of the difficult circumstances faced by these young victims of child abuse and other crimes, is the most powerful evidence that court preparation programs can have significant impacts on children.

The Calgary Child Witness Court Preparation Program file review tracked and documented close to 2129 referrals from 1992 to 2003. Much of the information is demographic, enabling the program administrators to develop a picture of program

referrals and the outcome of cases. Such information is critical when developing program content and implementation strategies.

### **Limitations and Strengths of the Court Preparation Evaluation**

The results of the quantitative file review data analysis in the present study are reflective only of children referred to and/or attended the Calgary Child Witness Court Preparation Program from 1992 to 2003. It is not, nor could it be, representative of the population of child victims/witnesses in Alberta. Although the information can be compared and contrasted to other programs, it can only be done so in a general way. The criminal justice context of Calgary is undoubtedly different than other cities, making the court and court preparation experiences of children in Calgary different as well. Also, specialized procedures and programs have been developed in Calgary to investigate and prosecute offences against children. Such systemic differences will, no doubt, impact children's experiences with the criminal justice system. The unique contextual nature of Calgary must be considered when interpreting the results.

Another limitation is the substantial amounts of missing data on key variables, making it difficult to make linkages between the program and the criminal justice system. The most important variable that was not consistently collected is whether the child did or did not testify. Given the mandate of preparing children for court, it would seem that knowing whether or not a child testified would be a critical variable in understanding the link between children's testimony and court outcomes.

Nevertheless, given the paucity of research conducted on court preparation programs the file review adds important context and results to our understanding of the implementation of such critical programs.

Finally, the interviews with the 41 key community and justice stakeholders provided rich and powerful perspectives on both the experiences of children and youth who must testify, but also on the accessibility and outcomes of the Calgary Child Witness Court Preparation Program.

### **Recommendations for the Calgary Child Witness Court Preparation Program**

The most significant recommendation for the Calgary Child Witness Court Preparation Program is to improve the existing file data so that critical information is not being lost. The program has not been able to consistently collect information about children's testimony and other important courtroom factors, including the use of closed courtrooms, witness screens, and videotape disclosures and testimony since it is not routinely available in criminal justice databases or Crown files.

Because there can be a considerable delay between a child's involvement with the Court Preparation Program and the final outcome of the case the program might develop more effective ways to track and document this information. Collecting and recording all of this information is critical in order to have a fuller understanding of both the Court Preparation Program and children's experiences with the criminal justice system.

The program could consider expanding on the current outcome evaluation to better address the efficacy of the program and the impact of court preparation on child witnesses. Key questions include: did taking the program lead to a reduction in feelings of stress, fear, and anxiety in the children who participated in the Court Preparation

Program? Did the program lead to an increase in children's ability to testify? This information would move the analysis beyond the descriptive. Other programs, such as the Child Witness Project operated by the London Family Court Clinic collect information on children's fears and knowledge of court through the use of standardized measures and, therefore, can determine the impact that the court preparation program has on children's fears and knowledge.

Additional methods that other court preparation programs utilize and may be worthwhile for this program to pursue include obtaining feedback about the courtroom performance of children. This could be accomplished through using questionnaires immediately following a child's testimony. Given the amount of contact between police and Crown prosecutors and child witnesses, they may be able to provide accurate assessments that can be utilized in future evaluations.

Surprisingly, few evaluations of court preparation programs have been conducted to determine their impact on reducing children's distress of participating in the legal system. Instead, most reviews are descriptive in nature (i.e. victim/witness demographics and court outcomes). Future evaluations of the effectiveness of court preparation programs would involve a control group of children who did not go through the program. Such research strategies would yield important information about the impact and efficacy of court preparation programs on children.

### **Changes Implemented as a Result of the Current Research**

Given the importance of the feedback from both the file review and the interviews with key stakeholders, the Calgary Child Witness Court Preparation Program has already implemented a number of the recommendations made either explicitly or implicitly. These are documented below.

1. The quantitative file review indicated that the Court Preparation Program had been spending considerable time, energy and costs pursuing children and parents who had been referred to the program at the time of the charge of the offender. Many of these cases never proceeded to trial and it was not necessary for the children to attend the program. Program efforts have now been refocused to be more cost-effective by assisting children who have been specifically identified by the criminal justice system as likely witnesses.
2. Based on the feedback from stakeholders and an observation of the increased attrition rate of child participants during the six week group program, the program has been shortened from six weeks to four weeks. It appears that families are having difficulties making a full six week commitment and it is hoped that a reduced number of sessions will better meet their needs. As the Crown prosecutor's office in Calgary recently decided to "fast track" cases involving children under the age of 14 years by proceeding to a preliminary inquiry within 30 days of a criminal charge, the shortened court preparation program is more compatible with this new model.
3. It was the opinion of many stakeholders that parents and caregivers required more support from the Court Preparation Program than the one three-hour information session provided to them. The Program now offers four - 1½ hour sessions that run at the same time as the children's group. Since many of the parents wait for their

children during this time anyway, the simultaneous session seemed appropriate. Researchers Ursel & Gorkoff (2001) note that it is important that parents be well supported so that they in turn can effectively meet the needs of their children.

4. Stakeholders also expressed concern that a 4:30-6:00 PM scheduled session made it difficult for working parents to transport their children in time to attend. The time has now been changed from 5:00 PM to 6:30 PM to better accommodate parents.
5. The location of the program was a problem noted by a number of stakeholders that pointed out that a northwest location for service delivery did not take into account the majority of participants residing in the SE and NE areas of Calgary. This provided an additional strain for families who had to arrange transportation to the opposite end of the city, recognizing that bus routes are not direct to this area. As a result of this feedback, the program was relocated to a service site in the SE which is easily accessed by bus.
6. Stakeholders considered the program was ideally suited for children but could be modified to better attract and maintain the adolescent participant. Consequently, an e-learning interactive court preparation website is being designed with the needs of the adolescent in mind and will be piloted in 2007.
7. Based on the review of the literature, it was noted that researchers such as Saywitz and Goodwin (1996) advocate that court preparation programs include in their program strategies to assist children in handling questions and improving recall and memory. Based on the work of Saywitz and Snyder (1993) work on comprehension monitoring training and task demand training, the Court Preparation Program is incorporating exercises to assist children in understanding what is being asked of them and to ask questions when experiencing confusion. The program is also including strategies to assist children in developing effective word association and more thorough and comprehensive recall based on the research of Baker, Ornstein, and Holden (1984).
8. One of the significant challenges identified during the research was that many variables including (1) whether a child testified and how many times and (2) whether or not a screen, closed circuit TV or videotaped evidence was utilized is that such information is not currently being gathered by any system. Attempts are being made to coordinate with police, Crown prosecutors and court clerks as to the most efficient way to track the data in the future. The Child Witness Court Preparation Program now has two Mount Royal College students working with the program at any given time, to track and input client data on an ongoing basis. This will allow information on variables to be available annually.

## **Conclusion**

Increasingly, child victims are required to testify in court. Research demonstrates that many children who testify experience significant trauma, often compounding the effects of their original victimization. Court preparation programs specific for children are increasingly being implemented across Canada. These programs are designed to reduce the trauma and revictimization that child witnesses often experience and increase children's ability to effectively testify in court. Most studies to date have been primarily

descriptive in nature, including the present study. The file review of the Calgary Child Witness Court Preparation Program highlights the extent to which the program has been utilized over the past ten or so years.

The qualitative interviews from key stakeholders support the value and efficacy of the Court Preparation Program in assisting and supporting both parents and children through the ordeal of testifying. The study respondents documented a number of case examples in which children told their stories in court and even felt empowered by having done so.

Perhaps most importantly, the quotations from the key stakeholders remind us of the realities of the experiences of too many young children and youth who have been intimately violated by those whom they should have been able to trust: family members or adults in care-giving positions. That these youth should not only suffer the immediate and long-term consequences of abuse but must subsequently face the fear and uncertainty of a future appearance in court that could potentially re-traumatize them bears significant public attention.

The support provided by the Calgary Child Witness Court Preparation Program for both children and their families is significant in assisting them to not only testify, but at best, to feel empowered by the experience.

In conclusion, the evaluation results remind us that child abuse is an ongoing and serious concern. If perpetrators are to be brought to justice, child witnesses must be adequately prepared. Programs such as the Calgary Child Witness Court Preparation Program are essential in supporting both the child/youth victims and their families. The impact of such support is essential to both the justice system and to helping those impacted by child abuse move on with their lives.

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## Appendix One: Glossary of Terms

**“absolute discharge”** refers to the court’s automatic forgiveness with respect to a criminal charge. There is no record of conviction.

**“child”** is defined as anyone under the age of 18 years, under Alberta’s Child, Youth and Family Enhancement Act (Child Welfare Act).

**“child abuse”** refers to the violence, mistreatment or neglect that a child or adolescent may experience while in the care of someone they either trust or depend on, such as a parent, sibling, other relative, caregiver or guardian. Abuse may take place anywhere and may occur, for example, within the child’s home or that of someone known to the child. It may include neglect, physical abuse, emotional abuse and sexual abuse.

**“community service”** is a disposition that should be a condition of probation. It cannot be a stand alone condition.

**“conditional discharge”** occurs when an offender is not convicted, but found guilty of an offence and is discharged on the conditions prescribed in a probation order. If an offender is convicted on a subsequent offence during the time of probation, the court may decide to revoke the probation order and impose any sentence that could have been imposed at the time the order was made (Ministry of Community Safety and Correctional Services).

**“domestic violence”** is the attempt, act or intent of someone within a relationship, where the relationship is characterized by intimacy, dependency or trust, to intimidate either by threat or by the use of physical force on another person or property. The purpose of the abuse is to control and/or exploit through neglect, intimidation, inducement of fear or by inflicting pain.

**“fine”** is a sum of money ordered/required to be paid to the Crown by an offender as a punishment for his offence.

**“intermittent sentence”** is where the court imposes a sentence of not more than 90 days which can be served intermittently such as on weekends. A probation order must accompany an intermittent sentence and is usually applicable only at such times when the probationer is not confined.

**“jail”** is an institution to confine persons in lawful detention.

**“offender”** in this study refers to both the alleged offender and the offender. Under criminal statutes in Canada, an offender must be at least 12 years of age.

**“peace bond”** is an order from a Criminal Court that restrains one person from bothering or threatening another. The bond can last for up to twelve months. The person deemed abusive can be made subject to arrest for coming near or attempting to communicate with the other person.

**“physical abuse”** may consist of one incident, or it may happen repeatedly. It involves deliberately using force against a child in such a way that the child is either injured, or is at risk of being injured. Physical abuse includes beating, hitting, shaking, pushing, choking, biting, burning, kicking or assaulting a child with a weapon. It also includes

holding a child under water, or any other dangerous or harmful use of force or restraint. Female genital mutilation is another form of physical abuse (Department of Justice Canada, 1999). For the purposes of this study, physical abuse cases were identified as cases in which one of the following charges had been laid against an offender: Assault with a weapon, Aggravated assault, Assault causing bodily harm, Common assault, Assault uttering threats, Forcible Confinement; Abduction,

**“probation”** is a court disposition that authorizes the offender to remain at large in the community subject to conditions prescribed in a probation order. Probation can be ordered by way of a conditional discharge or a suspended sentence or it may be included with any of the dispositions of fine; imprisonment for a term not exceeding two years; intermittent sentence and conditional sentence. Probation is a mandatory term for those with a conditional discharge, suspended sentence or intermittent sentence and optional for those receiving a fine, incarceration or conditional sentence (Ministry of Community Safety and Correctional Services, 2006).

**“property offences”** are those that involve damage to the property of another without justification.

**“restitution”** is to return or restore some specific thing to its rightful order or status as a compensation for loss.

**“sexual abuse”** and exploitation involve using a child for sexual purposes. It takes place when an older or more powerful person, often in a position of authority, uses a child for personal sexual gratification, with or without the child’s consent. It includes actions, and even words of a sexual nature toward a child. For the purposes of this study, sexual abuse cases were identified as those cases in which the following charges had been laid against an offender: Sexual assault, Sexual assault with threats/bodily harm/weapon, Aggravated sexual assault, Uttering threats, Sexual interference, Invitation to sexual touching, Sexual exploitation, Gross indecency, Anal intercourse, Indecent acts,

**“substantiated cases”** are cases in which the balance of evidence indicates that an offence has occurred (Trocmé et al., 2005).

**“suspended sentence”** is when a conviction is recorded but the passing of sentence is suspended. Similar to a conditional discharge, a provision is in place for revoking the order, suspending the passing of sentence and imposing sentence (Ministry of Community Safety and Correctional Services, 2006).

**“victim”** A victim is a child under the age of 18 who has been abused by someone over the age of 12 years.

**“witness”** refers to a child is exposed to an offence in multiple ways, including directly viewing the violence, hearing it, being used as a tool of the perpetrator and experiencing the aftermath of violence (Edleson, 1999).

## Appendix Two: Key Stakeholder Interview Guide

Demographics	<p>Occupation:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Police officer</li> <li><input type="checkbox"/> Child welfare worker</li> <li><input type="checkbox"/> Crown Prosecutor</li> <li><input type="checkbox"/> Court Preparation Facilitators</li> </ul> <p>-Unit (police only):          -Office: (child welfare worker only):          -Years of experience in field:          -Years of experience working with children required to testify in court          -What is the extent/history of your involvement with the Child Witness          -Court Preparation Program?</p>
Reactions of children and their families prior to court?	<p>-What are some of the typical reactions of children when they are anticipating going to court?          -How do parents/caregivers and other family members react prior to their children going to court?          -What strategies/resources are helpful when working with anxious children and families scheduled to go to court?</p>
Court Stressors	<p>-What are the key aspects of the court environment that are stressful for children when testifying in court?          -What, if anything, would you recommend be changed in the court environment to make it easier for children to testify?          -What strategies have you personally used or advocated for in to assisting a child who must testify in court?          -What was required to implement those strategies?          -Which strategies do you believe are most effective in helping children testify in court?</p>
Variables that Impact Children	<p>-What case circumstances/ issues make it more difficult for children to testify?          -What family circumstances/issues make it more difficult for children to testify?          -What case circumstances issues make it easier for children to testify?          -What family circumstances make it easier for children to testify?          -Are you aware of any additional resources for children?          -Are you aware of any additional resources for parents?</p>
Children Testifying in Court	<p>-Describe circumstances in which you perceived a child as having had a positive experience testifying in court.          -To what factors do you attribute to this child's positive experience?          -Describe an occasion in which a child was distressed or traumatized during his/her courtroom experience.          -To what factors do you attribute to the child's distress?          -In your experience, please comment on the use of         <ul style="list-style-type: none"> <li>▪ Closed courtrooms:</li> <li>▪ Screens:</li> <li>▪ Videotape testimony:</li> <li>▪ Adjournments:</li> </ul>         -Have you noticed any trends in charges and convictions of cases involving children?          -Have you noticed any trends in the prosecution or resolution of cases</p>

	<p>involving children?          -Has the Child Witness Court Preparation Program had an impact on the actual ability of children to testify?</p>
<p>Child Witness Court Preparation Program</p>	<p>-Estimate how many children a year with whom that you work are referred to the Court Preparation Pprogram?          -How do you determine whether or not you/your colleagues refer a child should be referred to the Child Witness Court Preparation Program?          -What is your process for making a court preparation referral?          -With what age groups is the Child Witness Court Preparation Program best suited to assist?          -What are your expectations of the program with respect to a child you refer for assistance?          -Are you aware of other organizations offering child witness preparation assistance? Are there any important difference in their process?          -Describe a child with whom you have worked with that benefited positively from attending the Child Witness Court Preparation Program. What made this a positive experience?          -Describe a child with whom you have worked with that did <b>not</b> benefit from the program. Why was this so?          -What feedback have you received from parents and children about the Child Witness Court Preparation Program?</p> <p>On a scale of 1-6, with one being least satisfied and 6 being most satisfied, how would you rate your satisfaction with the program on the following dimensions? (<i>say category and response number into audiotape</i>)</p> <ul style="list-style-type: none"> <li>▪ Service and friendliness: don't know 1 2 3 4 5 6</li> <li>▪ Accessibility and ease of contact: don't know 1 2 3 4 5 6</li> <li>▪ Competence of facilitators: don't know 1 2 3 4 5 6</li> <li>▪ Location of service (Plaza 14): don't know 1 2 3 4 5 6</li> <li>▪ Content of court prep curriculum: don't know 1 2 3 4 5 6</li> <li>▪ Liaison with criminal justice professionals: don't know 1 2 3 4 5 6</li> <li>▪ Support to children and family: don't know 1 2 3 4 5 6</li> <li>▪ Follow-up support to children and families: don't know 1 2 3 4 5 6</li> <li>▪ Administrative follow-up re court updates and outcomes: don't know 1 2 3 4 5 6</li> </ul> <p>-Is there enough support for parents throughout the entire system (both inside and outside of the Child Witness Court Preparation Program)?          -What resources are in place for parents in supporting their children (both inside and outside of the Child Witness Court Preparation Program)?          -With what aspects of the Child Witness Court Preparation Program are you most satisfied?          -What aspects of the Child Witness Court Preparation Program could be improved?          -How important a resource is the Child Witness Court Preparation Program for you in your current role?</p>

### Appendix Three: Charge by Age of Child

#### ORIGINAL CHARGE 1 \* AGE OF CHILD – ATTENDED COURT PREP

Count		AGE OF CHILD (COHORT)					Total
		0-3	4-7	8-11	12-15	16 and older	
ORIGINAL	First degree murder	0	0	1	1	1	3
CHARGE	assault with weapon	0	5	4	9	13	31
1	aggravated assault	0	0	1	5	0	6
	assault causing bodily harm	1	3	9	16	10	39
	common assault/assault	0	15	20	77	23	135
	sexual assault	0	71	133	149	48	401
	sexual assault threats/bodily harm/weapon	0	0	1	4	3	8
	aggravated sexual assault	0	0	0	2	0	2
	uttering threats	0	0	3	11	4	18
	choking to overcome resistance	0	0	0	1	1	2
	possession of a prohibited weapon	0	0	0	0	4	4
	break and enter	0	0	0	4	0	4
	theft	0	0	1	3	0	4
	robbery	0	0	1	35	17	53
	mischief	0	0	0	0	1	1
	causing disturbance	0	0	0	0	1	1
	harassing/annoying phone calls	0	0	0	0	2	2
	sexual interference	0	8	15	16	4	43
	invitation to sexual touching	0	2	1	3	1	7
	sexual exploitation	0	0	0	1	1	2
	indecent assault	0	0	2	4	2	8
	gross indecency	0	0	2	1	0	3
	anal intercourse	0	0	0	0	1	1
	obstructing justice	0	0	0	2	0	2
	criminal harassment/stalking	0	0	0	2	2	4
	indecent act	0	2	3	1	0	6
	abduction	0	0	2	0	0	2
	Other	0	2	5	6	1	14
Total		1	108	204	353	140	806

#### Appendix Four: Court Outcome and Type of Offence for Referred-only Children

<b>Court Outcome</b>	<b>Sexual Offences</b>	<b>Physical Offences</b>	<b>Property Related</b>	<b>All Other Offences</b>	<b>Total</b>
Guilty Plea	108 (41%)	305 (54%)	121 (60%)	59 (50%)	<b>593 (52%)</b>
<b>Convicted</b>	48 (18%)	49 (9%)	8 (4%)	8 (7%)	<b>113 (10%)</b>
<b>Charges Did Not Proceed</b>	39 (15%)	127 (22%)	47 (23%)	23 (19%)	<b>236 (21%)</b>
<b>Acquitted</b>	34 (13%)	11 (2%)	3 (15%)	2 (2%)	<b>50 (4%)</b>
<b>Other</b>	25 (10%)	68 (12%)	22 (11%)	24 (20%)	<b>139 (12%)</b>
<b>Charges Still in Progress</b>	9 (3%)	5 (<1%)	0 (0%)	3 (3%)	<b>17 (15%)</b>
<b>TOTAL OFFENDERS</b>	<b>263 (100%)</b>	<b>565 (100%)</b>	<b>201 (100%)</b>	<b>119 (100%)</b>	<b>1148 (100%)</b>
<b>Missing Cases</b>	88	103	80	31	<b>302</b>