

Round Table discussions

after

Panel # 2: *Children and testimony*

Child Advocacy Centres Knowledge Exchange

Monday afternoon, February 28, 2011

Panel # 2: *Children and testimony*

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See Presentation: [Ainslie] [Children in the courtroom](#)

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[Brooke Harker](#), Crown Witness Coordinator, Yellowknife, NWT

[Mr. Justice John McGarry](#), Superior Court judge, London, ON

After this panel, delegates at the Round Table addressed four questions:

Question # 1 : *How to promote better collaboration between police, crown prosecutors & victim services*

Question # 2 : *How to increase use of special accommodations for children, as allowed by legislation*

Question # 3 : *How to keep information and training links active*

Question # 4 : *How to limit re-traumatization of children in the justice system*

ROUND TABLE DISCUSSION

Question # 1) Give an example of a significant change in procedures or protocols in your jurisdiction that did - or could - promote better collaboration and coordination between police, crown prosecutors & victim services, so that children receive more timely referrals and seamless services.

Referral protocols.... or lack of them

Round table discussions identified variations in the ways that child victims and witnesses are referred to victim services.

Anecdotal reports suggest that, in many jurisdictions, there are no protocols in place; and referral processes are inefficient and inconsistent. Delegates expressed concern that some children who could benefit from victim services are often referred too late – or not at all.

It would seem that there is little information or documentation about protocols for referring children to Victim Services. Different police services take different approaches, in terms of how and when referrals are made. Everyone agreed that timing is crucial, both for children as well as for their parents and caregivers.

In some jurisdictions there are protocols for automatic referrals in place and children are referred to victim services in a timely and effective manner – with police referring all potential child victims and witnesses, when a charge is laid. It was also noted that children are not always referred by police services, sometimes referrals are from crowns or child protection services.

Many delegates agreed that the timing of referrals of child victims and witnesses in their jurisdictions is problematic, and they identified several problems that include: referrals are not automatic, they're late and some children are missed. Some police may not be aware of what victim services can provide for children and their families. The incompatibility of databases was also identified. It was felt that a disjointed justice system response can compromise a child's ability to participate effectively as a court witness and to be protected from re-victimization in the justice system.

Some solutions-- improve referral process

A simple solution, supported by many delegates, would be for a coordinated referral process – in which police refer to victim services immediately after a charge is laid. Police officers should have information immediately at hand about where to refer

children, as well as printed information to give to the child and family about victim services.

The justice system response to children needs to be smooth and integrated. This would include seamless and coordinated referral processes.

E-referrals were suggested as one way to make the referral process immediate and automatic. However, police services in the same area may use different database systems. New collaborations on database systems would improve the response for children.

In Newfoundland, a protocol was developed whereby the administrative staff at the Royal Newfoundland Constabulary take responsibility to forward referrals to the Victim Services Program. The police administrative staff are reported to be pleased to take on this task; front-line police are happy to have the job taken off their to-do list; and referrals have increased significantly.

Community partnerships and collaborations can ensure that efficient referral protocols are in place. Local multi-disciplinary coordinating committees that include all the key mandated agencies would be represented (police services, victim services, prosecution, child protection). The members of the committee should have senior decision-making status within their own agency, to ensure that workable referral protocols are implemented.

Quebec's Multisectoral Agreement

The Multisectoral Agreement on Child Victims of Sexual Abuse, Physical Abuse or Neglect that Threatens Their Physical Health integrates and replaces the various protocols and agreements on sexual abuse that had been signed in the 80s and 90s between the various networks of departments and organizations in Quebec tasked with protecting children. This Agreement is in line with the government's overall strategy to combat sexual assault.

A socio-legal intervention process has been put in place and includes the following steps: notifying the DPJ, coordinating and planning interventions, investigating and assessing the merits of the allegations, deciding what kind of follow-up will be needed, and acting and sharing information with partners. The roles and responsibilities of each partner are clearly defined in the Agreement.

The full text of the protocol can be found online (in French only) at <http://publications.msss.gouv.qc.ca/acrobat/f/documentation/2000/00-807/00-807-04.pdf>

Do crown attorneys specialize in cases involving children?

Some crowns may be reluctant to specialize in child abuse cases. Reasons suggested include concern about burn-out or loss of objectivity. In small communities, there typically are not enough staff resources to specialize.

When a crown specializing in children's cases leaves that position, the change can trigger a gap that may not be filled for some time, especially in the more remote communities.

Some delegates reported that larger urban centres may have one or two crowns dedicated to child cases.

In general, most communities benefit more from having access to a well-trained multidisciplinary team of professionals who can handle child cases.

Addendum : *Information provided after the KE, by Zebra Child Protection Centre.*

In Edmonton, a total of 10 Crowns from the Specialized Family Unit work exclusively with Child Maltreatment and Vulnerable Adults. An additional 4 Crowns work exclusively with Sexual Abuse Images, for the South and Northern Alberta Internet Child Exploitation Unit. Rural matters are not assigned to a child-specialized unit.

Crown attorneys and CAC advisory Boards

There was some discussion about whether or not a crown attorney would sit on the advisory board of a Child Advocacy Centre or similar type agency. Some delegates gave examples of this practice, while others wondered whether this might be perceived as a conflict of interest. It was noted that, in some communities, crown attorneys prefer to provide informal support to the Boards or steering committees of a CAC, or other specialized agencies.

Info sharing – case example

Manitoba uses a very effective information sharing / case management system called PRISM.

PRISM (“Prosecutions Information Scheduling Management”) is a case management system where both the crown attorney office and victim services create, document and share file information.

The prosecution side and victim services side are separated by tabs, but are accessible to each other. All communication with clients and collateral parties by Victim Services staff are documented within this system.

Crown attorneys document all significant information such as past/present court dates, nature of such court dates, remand reason or other file activity within this system.

The system allows crowns or Victim Services staff to easily obtain court updates or case status. Basically, PRISM allows any Victim Services worker in Manitoba to access each other’s assigned files for easy case coverage. The same principle applies to crown attorneys managing co-workers’ files. It enhances the team approach practiced throughout Manitoba.

Some delegates suggested that information sharing should be part of the national Victims Bill Of Rights (aka “Canadian Statement of Basic Principles of Justice for Victims of Crime 2003”). For a full text of the current bill, see

<http://www.justice.gc.ca/eng/pi/pcvi-cpcv/pub/03/princ.html>

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Question # 2) How can we ensure that justice system professionals are knowledgeable about key legislation pertaining to the unique needs of children in court? How can we ensure that justice professionals actively implement these?

Tracking implementation of C-2 – child’s access to testimonial aids

Delegates discussed the fact that, across the country, many young witnesses and their families are often unaware of the availability of testimonial aids or of their right to ask for testimonial aids.

It was agreed that more proactive measures must be taken to ensure that child victims and their families are fully informed about what legislated aids and accommodations may be available to them.

In many jurisdictions, crown attorneys need to be reminded that children have the presumptive right to use testimonial aids.

Delegates affirmed the importance of tracking information about the types of testimonial aids used for child witnesses, and the frequency of their use.

Manitoba shared an example of their tracking system, which uses a simple grid to record what types of aids are used by child victims and witnesses. (see below). The tracking form records the specific aid(s) used, which may include: a support person, screen, CCTV/videoconferencing, introduction of video-recorded statement, and exclusion of the public. Also tracked is accommodations such as the use/availability of child-friendly waiting rooms and the use of child friendly courtrooms. This tracking system also notes witness information, type of offence(s) and court outcome.

Below is a sample of the categories tracked on the Manitoba grid.

CVSS Testimonial Aid Checklist				Program Location:				Month _____ Year _____																								
Witness Factors		Type of Offence	Accused		Hearing	Court Prep		Testimonial Aids		Outcome																						
Client Age	Gender of Client	Victim	Witness	Sexual	Physical	Both	Other	Male/Female	Adult	Youth	Multiple Accused	Preliminary Inquiry	PJC Trial	QB Trial	Prior to Prelim or Trial	# of Sessions	Day of Hearing Only	Support Person	Closed Circuit	Video Tape	Screen	Exclusion of Public	Child Friendly Wait Room	Child Friendly Courtroom	Guilty Plea	Conviction	Ordered to Stand Trial	Stay of Proceedings	Dismissed(PJC Acquittal)	Discharged(AT Prelim)	Acquittal (QB)	Adjourned
M/F								M/F																								

Availability & use of equipment

Delegates discussed the limited availability of equipment in regional court settings. They don't always have access to portable CCTV or video conferencing. When

children feel unsafe coming to court, there is a need to make sure there are precautions in place, and that the individual court setting is taken into account. Some delegates suggested that children shouldn't even have to go into the courtroom, and gave examples of remote testimony, including, witnesses testifying from overseas, and prisoners from jail. Why can't we do the same for children?

Roadblocks – training needs

Discussions centred around the infrequent use of testimonial aids. A key issue is often availability of equipment and training in the technical set-up. There was strong recommendation to implement regular orientation and practice opportunities for all courtroom personnel, including crown attorneys, judges and court clerks, in the use of CCTV and videoconferencing equipment.

As new testimonial equipment becomes available, justice professionals will always want to see how the technology works in their court, before they actually use it.

It was noted that crowns, judges and defence counsel need opportunities to try out and use newly installed equipment (e.g. CCTV).



CCTV units are quite portable and can be brought to a variety of locations.

Testimony outside the courtroom

Despite the clarity in legislation and case law about a child's right to testimonial aids, attitudes amongst justice professionals continue to limit their use, in some jurisdictions across Canada.

Delegates suggested that some crown attorneys are reluctant to promote the use of CCTV, and that a few judges continue to be reluctant to permit a child to testify from outside the court room, via CCTV or videoconferencing. It was noted that some crowns are of the opinion that children have a greater emotional impact on a judge and jury when the child is physically in the courtroom.

CCTV equipment is now improved, easier to access and less costly, compared to some years ago. TV monitors used in courtrooms are significantly larger, and now a child witness can be “virtually” in the courtroom. His or her demeanour can be easily viewed by all present in the courtroom.

Throughout Quebec mobile CCTV units can be booked in advance through a centralized, computerized booking system.

Delegates want there to be better sharing of the most current information about research and case law, with respect to child witnesses and their use of CCTV/videoconferencing. This information should be shared consistently and frequently with all justice system personnel.

Some of the key research on CCTV includes:

Judy Cashmore & Lily Trimboli (2006). **Child Sexual Assault Trials: A Survey of Juror Perceptions**. Sydney AU: *New South Wales Bureau of Crime Statistics & Research*.

Graham Davies (1999). The **Impact of Television on the Presentation and Reception of Children’s Testimony**. *International Journal of Law & Psychiatry*, 22(3-4):241-256.

A safe waiting place – protecting the child from encountering the accused

In many courthouses across the country, there are no specially designated waiting areas for children and youth, and so an unplanned encounter with the accused and his or her supporters may unnerve a child who is waiting to testify.

In circuit courts, where non-traditional buildings are used (recreation centres etc.), delegates pointed out that these unwanted contacts can be problematic. A delegate reported that, even in Toronto, children sometimes must wait outside in a car, to avoid meeting the accused on court-day.

Special planning for a safe waiting place (even outside of the courthouse) is crucial. This requires co-ordinated planning between crowns, victim services and police, innovative solutions and careful scheduling.



LEFT: special child-friendly waiting room in Victoria, BC, while RIGHT: in a remote northern community, a child witness waits outside the courthouse in a truck. Is waiting outside in a truck acceptable? In some communities waiting in a vehicle, where the child is accompanied and protected by adults (parent, victim services), may be one solution to the challenge of having no private waiting area in a circuit court situation. It is imperative, however, in these situations, that the timing of a child's arrival and testimony is coordinated and planned, so that the wait outside in the vehicle (or some other innovative waiting place) is short.

Influence of judges

Delegates discussed the issue of some justice professionals being resistant to change.

It was noted that, in many of the more remote courtrooms, use of testimonial aids depended on the preference of the individual judge. A related problem that was also discussed is the fact that often crowns were not proactive in applying for testimonial aids, if they expect a negative response from a specific judge. When crowns don't make an application, children must often testify without the use of an aid.

Delegates want education programs for judges to address the use of testimonial aids, in order to remind judges that:

- 1) the use of the accommodations are presumptive;
- 2) that a child can choose to use a testimonial aid; and
- 3) that aids are legislated to facilitate a child's full and candid account of his or her evidence.

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Question # 3) What strategies serve to ensure that information and training links remain active?

Multi-disciplinary training triggers change

Everyone agreed that the complexity of cases involving children is increasing, which makes it more challenging, as more skill sets continually need to be added to the already crowded training agendas for justice professionals.

There was also general agreement that practical, interactive training, where participants are provided with opportunities to practice new skills – is more effective than passive listen-to-info training.

There were some examples provided of how multidisciplinary training can affect attitudes, implementation and positive outcome for children. Newfoundland and Labrador has seen an improvement in understanding the special needs of child victims and witnesses and the use of testimonial aids, after victims services and crown attorneys received joint training on the use of testimonial aids. They reported that the training triggered “really good dialogue.”

A unique example of multidisciplinary training was in Yukon, where courts close for special training days, so that all sectors (prosecution, victim services, crown witness coordinators, police services, child protection, judges and defence counsel) can attend the same training together.

Delegates provided several examples of training tools that worked for them:

- fact sheets about rights in Prosecutors offices + Victims Service offices, so that clients can make informed choices. This is pivotal.
- use video clips to train professionals
- training for court clerks to set up testimonial aids.
- use of webinars
- the series of 7 handbooks: “[*A Full and Candid Account” Using Special Accommodations and Testimonial Aids to Facilitate the Testimony of Children*](#)”

- schedule training at a time to maximize attendance. (When CCTV training was organized in one province, key people were too busy to attend.)

Delegates agreed that children are a special population, with complex needs, and emphasized the importance of appropriate training in the requisite skills when working with children and youth.

It is widely agreed that multi-disciplinary training is best – where police, crown attorneys, victim services, and child protection practitioners in the same jurisdiction – participate together in the same training sessions. Everyone who has experienced such multi-disciplinary training reports that they produce quick and effective changes in how child and youth cases move through the justice system. Several delegates commented that this kind of training allows people to get useful new tools, insights and information from outside of their own discipline. Developing awareness of overlapping issues and challenges among stakeholders was also valuable. Having the opportunity to meet and interact with others in the allied professions was also identified as a positive outcome.

It was recommended that we need to collect more comprehensive data on where such multi-disciplinary training has occurred and what changes it provoked.

Some delegates noted that funding for training by provincial governments continues to be limited.

Practical, point-form and video info is best

How do new staff find out about special legislation and aids for child victims and witnesses? Dropping a thick binder of procedures and protocols on someone's desk isn't the best way to convey information.

Prosecutors and victim service workers can benefit from short, point-form factsheets about the special needs of children, best practices, and who-does-what-when.

Many people want to see more video clips in training.

Pros & cons of e-training

Although everyone is quite keen on e-training, it was also pointed out: *“You can’t train people without the personal element, because the brain is social. You need opportunities to talk to people in person. Technology is not a replacement for that.”*

Some people suggested that Skype can be a good way to exchange expertise without incurring travel costs.

Various kinds of e-training save on travel costs, and it can also save people from losing many work hours due to travel time. But e-training isn’t always cheap. There can be significant costs involved in setting up webcasts and maintaining online forums, list-serves and portals that are moderated in a useful way.

Also, e-training may not work efficiently or reliably in the places that need it most – rural /remote locations with limited, unreliable, or no broadband connections.

Some commented that e-newsletters offer limited value, as they tend to provide “after-the-fact” summaries. What more people want is timely notices of new developments that are coming down the pipe about children in the justice system. Many people recommended that they could benefit from at least an alert system about new legislative changes and relevant case law.



The Knowledge Exchange was attended in Ottawa by 55 people in person, while another 20 to 43 people across Canada joined the sessions via a webcast, at various times over the 3 days.

Practice, discussion and face-to-face networking are all valuable learning tools. It was suggested that a combination of face-to-face and e-training is the best option.

At the end of spirited discussion on e-training, there was general agreement that online mechanisms are an excellent way to transfer information.

Voluntary vs. mandatory training

For too many justice professionals who work with children, training in the special needs of children in the justice system is voluntary. It would benefit children and the justice process if crown attorneys, judges, and police received more training in child development, the impact of victimization and specific skills needed when communicating with children. Where training is not mandated, it should be strongly encouraged.

Everyone agreed that, while judges need training in the special needs of children, it is most difficult to get children's issues on the training agenda of this professional group, as there are many issues competing for their attention.

Controversy – whether police and crowns should specialize in child cases

The issue of specialization is controversial: some delegates felt there are benefits to having crown attorneys or police who specialize with child/youth cases; others felt that too many problems develop when specialized staff are away temporarily, or move on to other jobs.

Knowledge transfer and mentoring

There was full agreement, however, on the need to establish formal ways to ensure that justice professionals who are more experienced in working with children/youth will mentor newcomers, and transfer their knowledge before leaving the job.

Many established CACs such as the Zebra Child Protection Centre in Edmonton put a high priority on staff mentoring.

Individuals who are more experienced in child and youth cases can offer help to colleagues in person, or by phone, by email or with video conferencing. Some professionals, including crown attorneys and medical examiners, often seek help from identified experts/specialists who can provide input and advice on challenging cases.

Who should do the training?

Delegates felt strongly that respected, active practitioners are often the more effective trainers.

Researchers can provide valuable evidence-based information. However, it was noted that researchers may not have the skill sets to impart effective, practical training that resonates with the front-line people who meet the child victims and witnesses in the interview rooms and courtrooms every day.

It was also noted that professionals tend to prefer training from expert practitioners in their own fields. Police pay attention to trainers who are police; lawyers listen to lawyers; judges want to hear from judges, etc.

A suggestion is for each professional group to be trained by a 2-person team that includes one of their own and a practitioner from another sector with complementary experiences and skill sets.

Web portal for info sharing / training

All delegates agreed that they could benefit from a web portal – or some kind of online mechanism -- where people who serve child victims and witnesses in a variety of roles could share best practices and ask questions.

It was suggested that the website for this Knowledge Exchange be expanded into such a portal.

Peer review

Jurisdictions that encourage frequent, formal peer review have found that staff turn-over is reduced. Practitioners working with children find it very helpful to get supervision and feedback from their peers, on their interaction with children, including reviews of their video recorded forensic interviews. It was noted that police are very open to peer review in their training programs and in maintaining their levels of skill.

“We work in hierarchies,” someone said. “When you close the door, and everyone’s opinion is validated as equal in a peer review, then it can go a long way.”

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Question # 4) Describe what policies, practices, services, physical facilities and courtroom equipment are essential building blocks that serve to minimize the possibility that child witnesses may be re-traumatized by the justice system.

Roadblocks that can lead to re-traumatization in the justice system

- Lack of a private or safe space where children / youth can wait before they testify and also meet with the crown and investigating officer on the day of court.
- Insistence by some justice professionals that children be physically present in court, despite the child’s expressed fears about facing the accused or testifying in public.
- Failure to make testimonial aids available to circuit courts in remote areas.
- Lack of preparation and coordination of cases involving child victims and witnesses.

ESSENTIAL building blocks that minimize re-traumatization of a child.

- Multi-disciplinary collaboration and coordinated approach to child cases
- Ensure early referrals and services
- early intervention and expediting the case
- early pre-court meeting(s) between the crown and the child
- avoid interviewing the child more than once
- comprehensive court preparation services for the child/youth
- inform the child about the availability of testimonial aids

- use age-appropriate language when communicating with the child/youth
- an accredited interpreter for the child, where necessary
- child-friendly environments for interviews and waiting
- safety of the child should always be assured
- use the child's video-recorded interview in court
- have a support person for the child throughout the process
- where possible, avoid having the child/youth testify at a preliminary hearing
- to ensure a shorter process, easier access to testimonial aids and a child friendly courtroom -- a regularly scheduled courtroom and time slot may be designated for child victims and witnesses. This would include: dedicated justice personnel; application for testimonial aids made in advance; automatic referral to counselling services; streamlining of data, and a steering committee.

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