

Strengthening the
Voice of Children



Responding to the Needs of
Children
in the Justice System



Violence Prevention Initiative

Newfoundland and Labrador



TABLE OF CONTENTS

INTRODUCTION	1
BACKGROUND ON JUSTICE ISSUES COMMITTEE	3
ISSUES AND SOLUTIONS	5
1. Reporting Child Abuse	5
2. Investigating Procedures with Child Victims	7
3. Facilitating Children’s Testimony in Court	9
4. Services to Children who Witness Violence in the Family	11
5. Summary of Recommendations	13
APPENDIX A SUGGESTED STANDARDS FOR COURTROOMS AND CIRCUIT COURTS JUSTICE ISSUES COMMITTEE, 2001	



INTRODUCTION

Developing and maintaining effective measures for the comprehensive protection of children from serious injury and death at the hands of adults requires the best efforts of the provinces and territories and the Government of Canada. *Justice Canada*.¹

This report has been compiled by the Justice Issues Committee of the Violence Prevention Initiative. The purpose of the report is to outline the key concerns of child victims in the justice system and to make recommendations for improvements to policies and programs related to services to children. The report is organized under the following headings: The Needs of Child Victims; Background on the Justice Issues Committee; Issues and Solutions: 1. Reporting child abuse, 2. Investigating procedures with child victims, 3. Facilitating children's testimony in court, and 4. Services to children who witness violence in the family; Summary of recommendations; and Appendices.

THE NEEDS OF CHILD VICTIMS

It is generally agreed that children are our most vulnerable group when it comes to protection against various types of abuse. Yet, the statistics on child abuse illustrate that there is a huge gap between what we espouse about children and their day to day reality.

An estimated 135,600 child maltreatment investigations were conducted in Canada in 1998 by child welfare agencies. Almost one-half (45%) of these reports were substantiated by the investigating child welfare worker. The reasons for maltreatment were: neglect, 40%, physical abuse, 31%, emotional abuse, 19%, and sexual abuse, 10%.²

There were approximately 6,000 children in Newfoundland and Labrador found to be in need of protective intervention as defined in section 14 of the Child, Youth and Family Services Act during the period April 2000 to March 2001.³

Under the age of 12, girls are twice as likely as boys to be victims of sexual offenses.⁴

Children with disabilities are 1.5 to 5 times more likely to experience sexual abuse than children without disabilities.⁵

¹Child Victims and the Criminal Justice System: technical Background Paper, Ottawa: Department of Justice, 1999. P. 4.

²The Canadian Incidence Study of Reported Child Abuse and Neglect, Statistics Canada, 1998.

³Health and Community Services, Government of Newfoundland and Labrador, 2002.

⁴"Sex Offenders," Statistics Canada, Juristat (19) 3 March, 1999, p. 1

⁵The McCreary Centre Society (1993). Sexual Abuse and Young People with Disabilities Project, Vancouver: New Leaf publishing.



These statistics illustrate that we cannot develop solutions to the problems facing child victims in isolation of their families, the community in which they live, and the various government departments and agencies which provide social programs. Eliminating violence towards children requires a holistic approach which encompasses a wide range of services and policies to support and protect children and their families. These services and policies include: child care and family support programs, offender programs, adequate and safe housing, education and training on violence prevention, youth programs, mental health counselling for victims and their families, access to legal counsel, and many other related services. While all of these related needs have not been addressed in this report, the committee wants to ensure that any examination of the issues of child victims include an analysis of all the contributing factors and recognize the need for a coordinated approach.

The issues and solutions presented in this report have relevance to the Departments of Justice, Health and Community Services, Human Resources and Employment, Education, Youth Services and Post-Secondary Education, the Government's Strategic Social Plan and the Women's Policy Office.

*"Social policy is about how people interact. It is about processes, transactions and institutions which promote an individual's sense of identity, participation and community. Good social policy promotes freedom of choice and social solidarity. It is the embodiment of values and relationships which enhance human well-being..
..."*

Social Policy Advisory Committee, 1997

The needs of child victims have been the focus of advocacy groups and professionals who work with children and families for many years. While there are support services for children who find themselves in immediate crisis, many others go without support because they do not fit program criteria.

There are a number of processes underway within government including restructuring and redesign of departments, the strategic social plan, the violence prevention initiative, legislative changes such as the Child, Youth and Family Service Act, and the establishment of the Child and Youth Advocate which makes this an opportune time to address the needs of child victims. It is extremely important in any departmental redesign that there is early identification of gaps in services to children and that there be a coordinated approach to delivery.

The Committee recognizes that all government departments are faced with fiscal constraints and that substantial changes requiring major financial contributions are not likely to be implemented immediately. This report includes recommendations for changes to policy and procedures which can be made within current operating budgets. Other recommendations will require a financial commitment in both the short and long-term. However, investing in preventive measures for children and families now will be far less costly than dealing with the long-term effects of systems which fail to provide adequate services and supports to children and families.

When our social systems fail to provide the proper supports to children and their families these systems in effect contribute to the proliferation of violence.



The Justice Committee demonstrates the potential for community-government cooperation and collaboration on policy development and other objectives⁶.

The Justice Issues Committee evolved during the work of the Provincial Strategy Against Violence (1995-2000). Its membership included community representatives from groups such as the Provincial Association Against Family Violence, the Provincial Advisory Council on the Status of Women, Kirby House, and government representatives from the Department of Justice, Provincial Court, and the Women's Policy Office. Both the Justice Issues Committee and the Provincial Strategy Against Violence had a rich history of community and government agency partnerships coming together to affect change in government legislation, policies and practices that are harmful and contribute to the proliferation of violence and abuse. The Justice Issues Committee was a model for true community-government collaboration on social policy development.

The Violence Prevention Initiative (VPI) is a government-community partnership established to continue the work of the Provincial Strategy Against Violence and to implement its recommendations. This involves developing structures and processes which will enable the community to contribute to policy development over the long-term. This direction is also in keeping with government's broader Strategic Social Plan which identifies the need for new approaches in social policy development which include community and government finding more effective ways to address social development.

The Justice Issues Committee continues under the VPI and has expanded its membership to include additional community representation, and additional government representation (Probation, Health and Community Services - Child, Youth and Family Services, and Youth Corrections.) The Committee's mandate is to provide the Department of Justice with on-going advice on implementation of recommendations from the Provincial Strategy Against Violence and recommendations on emerging issues related to the justice system.

The Justice Issues Committee under the Provincial Strategy Against Violence made recommendations in nine key areas. The present committee acknowledges the importance of these recommendations and members have agreed to continue to work with the Department of Justice on implementation. The recommendations were:

1. Review new legislation on family violence and make recommendations for Newfoundland and Labrador
2. Develop a framework for the Department of Justice to respond appropriately to alternative dispute resolution and restorative justice
3. Develop and implement protocols on family violence for police and health professionals
4. Improve access to, and education about, Peace Bonds
5. Review the effectiveness of Unified Family Court in St. John's

⁶Provincial Strategy Against Violence, Final Implementation and Evaluation Report, (2000) p. 11



6. Improve court procedures and related services for women and children
7. Improve access and quality of legal services for women and children
8. Increase training and education on violence awareness to all professionals providing services to victims of violence
9. Review and improve services to child victims

The Justice Issues Committee, under the VPI, decided to make issues of child victims its first priority in 2001-2002.

COMMITTEE MEMBERSHIP

Heather Gaskill, Coordinator, Newfoundland and Labrador Sexual Assault Crisis & Prevention Centre

Deborah Keats, Administrator, Iris Kirby House

Pamela Ryder Lahey, Director of Court Services, Provincial Court

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Pam Thomas, Provincial Manager, Victims Services, Justice

Mona Wall, Manager, Violence Prevention Initiative (Co-Chair)



1. REPORTING CHILD ABUSE

Despite the high statistics on child abuse and the mandatory reporting law it is commonly acknowledged that many other cases go unreported. The committee identified a number of reasons for this lack of reporting. People often do not want to get involved or do not trust the system. Those who do report feel that little is done and the consequences for them are often worse than those accused of abuse. When people see repeat offenses and children going back into abusive homes they are deterred from reporting following incidences. Often charges are not laid and when they are, convictions are infrequent. If a conviction is obtained, sentences are often low in comparison to crimes against adults.⁷ Once a case is reported, there appear to be inconsistencies in follow-up procedures with those who report incidents.

Individuals who have been accused or suspected of sexual abuse or a related offence often move on to new relationships where children are living in the home. Women in these relationships often have no knowledge of the history of their partner and unknowingly place their children at risk. Care givers working in the field of child protection may know the history of the individual accused or suspected of sexual abuse but at the same time may be uncertain about the legal implications of disclosing the relevant information to the women. Mandatory reporting of potentially dangerous situations to Child, Youth and Family Services allows workers in the program to apply a risk assessment process to all cases. However, this may not be known by all in the community and there may be inconsistencies in implementation of department policy throughout the province. It is important therefore, that Health and Community Services ensures consistent implementation of its risk assessment process.

Good communications is essential between those who report crimes against children and those who address complaints if we hope to encourage the reporting of child abuse. The key agencies involved are the RNC, the RCMP, and Health and Community Services - Child, Youth and Family Services. Both the RNC and the RCMP have protocols in their investigative procedures to update complainants at the end of investigations. Generally, with Child, Youth, and Family Services, referral sources are known to the family and often become an integral part of the case planning process for families.

⁷In Justice Canada's technical paper on child victims, (Op. cit) it was noted that in the 1984 Badgley Committee Report on Sexual Offences Against Children and Youths that a trend was identified toward more lenient sentences for convicted sex offenders showing that sexual assaults against children were generally punished less severely than sexual assaults against adults. Court records examined in another study, (Op. cit, footnote 80) showed that only thirteen percent of offenders who commit offences against children received a sentence of two years or more in contrast to thirty percent of offenders convicted of sexual assault against adult women. Reasons suggested included: less "violence" and use of weapons, procedural matters such as more guilty pleas and less medical evidence, and characteristics of the offenders, such as no criminal record, being married, and being a member or person well known to family. (p.26).



SOLUTIONS:

There needs to be more education around defining and identifying child abuse, reporting abuse, dealing with disclosures, and providing support to victims and their families. This education needs to occur with all students enrolled in the helping professions (medical, social, legal, educational) at the college and university level, professionals, and the general public.

1. **RECOMMENDATION:** That the Department of Youth Services and Post-Secondary Education establish a working committee to investigate strategies to integrate more violence awareness education and training into all education for helping professions.

There needs to be on-going public awareness campaigns on: 1) children's rights; and 2) the responsibility of adults to report child abuse.

2. **RECOMMENDATION:** That the Child and Youth Advocate take the lead role in public awareness on children's rights.
3. **RECOMMENDATION:** That the Department of Health and Community Services continue to provide awareness to the public and professional community regarding the reporting of child abuse and the mandatory reporting law as outlined in the Child Youth and Family Services Act.
4. **RECOMMENDATION:** That the departments of Health and Community Services - Child Youth and Family Services, Justice and Education collaborate on a public awareness campaign on breaking the silence around child abuse.
5. **RECOMMENDATION:** That Child, Youth and Family Services, Health and Community Services, have a coordinated, provincial policy regarding reporting and assessment of suspected child abuse. Further, that all new staff be made aware of this policy on a regular basis and that care givers in the community be made fully aware of the policy and their options to report suspected abuse.



2. INVESTIGATING PROCEDURES WITH CHILD VICTIMS

Once an incident of abuse has been reported concerning a child, the next critical step after securing the child's safety is to investigate the complaint. This is a difficult time for the child and the challenge for professionals is to get accurate information from the child in a way that does not require the child to make prolonged and repeated statements which may cause her/him undue stress. When a child is forced to repeat an incident to many professionals the experience can be emotionally damaging for the child. Repeated accounts of incidents can result in inconsistencies in statements. Such inconsistencies could affect the integrity of the evidence and weaken the Crown prosecutor's ability to prosecute the case. It has also resulted in children recanting and refusing to give further testimony.

There are two key issues which have been raised around investigating procedures. The first is the need for all those who come in contact with children during an investigation to have proper training on best practices for providing support to children who are suspected of being abused. Training includes a broad range of topics such as general sensitivity to the impact abuse has upon a child, questioning techniques and other investigative protocols to be used with children.

The second issue related to investigating procedures is the need for collaboration between police officers and social workers on investigations. A Memorandum of Understanding exists between the Department of Justice, (RNC, RCMP, Crown Prosecutors) and the Department of Health and Community Services entitled Coordinated Response to Child Sexual Abuse. In practice, the human resources are not available to carry out the spirit of the MOU, especially in St. John's, because of the low number of police officers in relation to the number of social workers available to work on cases.

One of the recommendations coming out of the Hughes Inquiry in the 1990s was the establishment of an inter-departmental training program for joint investigation of child sexual abuse. The program developed was entitled, A Collaborative Approach to the Investigation of Child Sexual Abuse. It is a one week train the trainer program which has recently been re-activated. There is a working group coordinating this training effort - The Collaborative Approach Working Group. The training is carried out with Justice (RNC/RCMP) and Health and Community Services, Child Youth and Family Services. To date, the training has been positively received. Participants have noted that the program's regional, inter-agency delivery model is conducive to the provision of seamless service delivery to children and families dealing with child abuse situations.

There are several initiatives ongoing in the province to improve services to children with respect to the investigative process. One of these is in Stephenville where the social worker and police officer actually share an office. The St. John's Region is also currently undertaking a research project looking at the feasibility of starting a co-location project with Child Youth & Family Services, and the Royal Newfoundland Constabulary. The Department of Health & Community Services should continue to support similar initiatives throughout the province.

SOLUTIONS:

The Collaborative Approach to the Investigation of Child Sexual Abuse training program should continue to be funded with a long-term plan. It is estimated that it will take two to three years to conduct training for current staff, after which there will be a need for on-going training. This training



is based on an inter-agency model and therefore it is very important that all three partners remain committed to training together as a group for the model to be truly effective.

Significant numbers of RNC, RCMP and social work staff have already been trained throughout the regions. The Department of Health & Community Services has also contracted with the School of Social Work, Memorial University of Newfoundland to ensure that the training material is updated and consistent with best practice.

1. **RECOMMENDATION:** That the Department of Health & Community Services and the Department of Justice continue to partner to ensure that the Collaborative Approach to the Investigation of Child Sexual Abuse maintains funding and resources to provide this training ongoing throughout the province.
2. **RECOMMENDATION:** That the partners to the Collaborative Approach to the Investigation of Child Sexual Abuse training program fund an external evaluation of the program as it relates to outcomes for children. This evaluation should be completed by March 31, 2003.
3. **RECOMMENDATION:** That the committee revising the MOU on a Coordinated Response to Child Sexual Abuse continue to receive support from their respective departments to move this process forward.
4. **RECOMMENDATION:** That when the committee reviewing the MOU on a Coordinated Response to Child Sexual Abuse completes its work, all staff effected by the MOU should be provided a copy and explanation of same.

Social workers and police personnel often conduct investigations with families staying at shelters. This can be a stressful experience for the family in question, and others staying at the shelter. Shelter workers also experience stress because they are uncertain about the steps they should take when there is a disclosure of child abuse. Improved communication and transparency around procedures associated with investigations of child abuse would help relieve confusion and stress by residents and workers at shelters. The Provincial Association Against Family Violence (PAAFV) is working together with Health and Community Services to develop a provincial training plan for all shelter administrators and workers. This training plan will be completed in November 2002 and will incorporate information on procedures and policies on reporting and investigating child abuse.

5. **RECOMMENDATION:** That dialogue continue between the Provincial Association Against Family Violence, and Health and Community Services - Child, Youth and Family Services, RNC and RCMP to discuss information sharing and ways in which it can be incorporated into any ongoing or new training programs of all those involved.



3. FACILITATING CHILDREN'S TESTIMONY IN COURT

Court appearances by children can cause great trauma and life-long problems. Society has a responsibility to protect children and to do its utmost to minimize the trauma of court appearances so that the experience does not cause the child additional suffering over and above that experienced from the abuse.⁸

The Committee recognizes that many professionals working with children understand their needs and do what they can to support them, often going outside the purview of their responsibilities and jurisdictions. Currently, Child, Youth & Family Services is attempting to 'fill the gap' of supporting children through the court process. However, this responsibility needs to be assigned to one department so that children can receive consistent support and service and the relevant department be provided with the additional resources to provide quality service to women and children.

The issues associated with children testifying in court include: pre-trial preparation of the child, availability of court waiting areas that are safe and child appropriate, availability of appropriate technical facilities which provide the child with the option of giving testimony through close circuit television to avoid direct contact with the accused, and having courtrooms that are child appropriate when a child does have to appear in court. This includes child appropriate seating and proximity of the child to the judge and the defendant. Finally, children require a continuum of support which reflects their inherent vulnerability.

In 2001 the Committee made a number of recommendations to the Provincial Court and the Department of Justice on modifications to court rooms and circuit courts to make them more appropriate for children. This resulted in changes being made to both the Provincial Court and the Supreme Court of Newfoundland in St. John's in the fall of 2001. Similar changes are being incorporated into the 2002 renovations to the court in Happy Valley-Goose Bay. Additional recommendations were made regarding a check list of items to be covered in pre-trial arrangements between judges and lawyers. (appendix A) Pre-trial conferences, which include the Victim Services Coordinators, have begun in Happy Valley-Goose Bay. In July 2001 the Committee made a recommendation to the Deputy Minister of Justice to develop a provincial plan for long-term implementation of modifications to court rooms and circuit courts. At the same time, the Law Society had just established a committee to review court standards. The Justice Issues Committee has been successful in having a representative, Pam Thomas, appointed to the Law Society's committee to review court standards and to advise on issues related to providing more victim-sensitive responses.

⁸The Justice Canada's technical background paper on child victims (Op. cit.) noted that "there has been a major focus of legislative reform and judicial innovation over the past decade. This area includes the issue of competency of child witnesses to testify, testimony outside the courtroom or behind screens, the use of videotaped evidence, hearsay statements, and other assistance for child witnesses. Legislation has also addressed research identifying the special needs and vulnerabilities of children and the nature, extent and effect of the trauma they may suffer as a result of their involvement in the adversarial atmosphere of the courtroom." P. 35.



SOLUTIONS:

The Committee recognizes that one of the issues regarding provision of support to children in the court system is the fact that Victim Services, Department of Justice, is not available to children. The Committee deliberated on whether child victim services should be delivered by Justice or Health and Community Services. The consensus of committee members was that this service would be more aptly placed within Victim Services, Department of Justice because it already has experience and knowledge of the court system through its adult clients. In making this recommendation the committee recognizes that providing services to children also implies providing support to their parents or guardians.

1. **RECOMMENDATION:** That Victims Services, Department of Justice, be extended to include services to children and their families.

There has been a significant increase in the number of referrals to the Victim Services program since the 1999 changes to the Criminal Code of Canada. Victim Services activated 3,745 referrals in 2000-2001 which was an increase of 104% from the previous year. Additional staff with specialized knowledge and skills will be required to provide a similar service to children and their families or guardians.

2. **RECOMMENDATION:** That financial and human resources for appropriate staffing, accommodations and resource materials be allocated to cover the additional case load which will develop once children and their families are included in the mandate of Victim Services.

Design standards for courtrooms and circuit courts should reflect the needs of vulnerable witnesses. These standards should be implemented in all court settings and should serve as a template for any planned renovations or new construction of court facilities. The implementation of these standards should be a matter of course for all renovations and construction and should not depend on lobbying by the public each time construction or renovations are announced.

3. **RECOMMENDATION:** That the Department of Justice and courts collaborate on the development of standards for courtrooms and circuit courts. These standards should be widely circulated so that those items requiring minimal costs could be put into effect immediately. Further, that the Department develop a plan to phase in all standards over time.

Sensitivity training on violence awareness for legal professionals and court personnel has been identified in many reports on the topic as a valuable and necessary approach. The Committee is aware that Justice personnel have participated in the Violence Awareness and Action Training Program and that in-service training is often scheduled for staff meetings and provincial conferences. More needs to be done on increasing awareness of issues associated with child witnesses or victims.

4. **RECOMMENDATION:** That the Department of Justice offer awareness training and information for legal professionals and court personnel. This training and information would include due consideration for children.



4. SERVICES TO CHILDREN WHO WITNESS VIOLENCE IN THE FAMILY

A minimum of 1,000,000 children have witnessed violence against their mothers by their fathers or father figures. In 52% of these cases, the mother feared for her life and in 61%, the mother sustained physical injuries.⁹

Children become victims when they experience violence in the family - most often when their mothers are abused by a partner. They experience trauma from living in violent situations. They experience additional stress when, out of necessity, their mothers have to take refuge in shelters or other temporary residences.

In 1999-2000 there were 96,359 admissions (57,182 women and 39,177 children) to 448 shelters for abused women across Canada.¹⁰ For the same period in Newfoundland and Labrador there were 1,246 admissions of women and dependent children.¹¹

Shelters try to provide some support to children but they do not have the resources to meet the full needs of child residents. These services only touch a small percentage of children who witness violence because many women do not turn to shelters for refuge and rely instead on friends, family and other resources. Often it is assumed that children are fine when protection is put in place. However, the reality is that many children need counselling and other types of support and are put on long waiting lists to receive these services. Generally, childcare is not available to mothers living in shelters. This means that they have to take their children with them to various social and legal appointments outside of the shelter. This can be stressful for both the mother and the children. The principles outlined in the Child Youth & Family Services Act, Section 8, allows for the provision of such services. These may include, but are not restricted to counselling, respite, transportation, and other such related supports deemed necessary to assist families in their transition.

SOLUTIONS:

There has to be more recognition that there is inherent victimization of children who witness violence in their homes. More support services are needed for children who live in shelters and for those who remain at home.

- I. **RECOMMENDATION:** That Health & Community Services continue to provide services and support to women and children at shelters, and following their departure from shelters, if required. Further, that the Department discuss this policy with Regional Directors throughout the province to ensure there is consistency in this practice in the best interest of families.

⁹1999 General Social Survey on Victimization, Statistics Canada, 2001

¹⁰Canada's Shelters for Abused Women, 1999-2000. Statistics Canada., Juristat (21), p.1

¹¹Transition Home Survey 1999-2000, Newfoundland Fact Sheet, Statistics Canada, 2001



The Janeway Child Health Centre offers support groups for children who witness violence. These groups last for ten sessions and when needed, children are also referred for individual counselling. Although these groups are open to families provincially, only those in reasonably close proximity to St. John's can attend due to obvious travel restrictions. Transition Houses throughout the province have been offering similar support groups to children in need. However, travel restrictions in regions result in limited access to these groups from outside of the immediate communities of the respective transition houses.

2. **RECOMMENDATION:** That Health and Community Services liaise with the Janeway Child Health Centre on its model for group work with children. Further, that this group model be offered to children in the remaining five health board regions.

Children who have experienced third party sexual assault are sometimes seen to have their needs addressed because they are in the protection of their parents and the offender has been identified. Yet, these children still need access to services for their emotional needs and their parents need support for the trauma.¹²

3. **RECOMMENDATION:** That Health and Community Services, Child, Youth and Family Services, ensure that children and families who have experienced third party sexual assault have access to regionally-based mental health services and programs.

There is a Federal victim surcharge which offenders pay to provide support services to victims of crimes. On average there is approximately \$300,000 a year imposed in Newfoundland and Labrador with approximately \$185,000 actually collected. In most other provinces there is also a provincial surcharge. This surcharge usually accumulates far more than the Federal sur-charge and is often used to augment standard victim services.

4. **RECOMMENDATION:** That the Department of Justice follow the example of other provincial jurisdictions and establish a Provincial surcharge. The funds collected through this surcharge should be used for additional services for victims, over and above those provided under current Department programming.

There needs to be more financial support provided to women and children in transition. This requires a response from Human Resources and Employment for income support. Human Resource and Employment is in the process of implementation a number of new policies relating to victims of violence which are outlined in its document, *Moving Forward: Responding to Victims of Violence*.

5. **RECOMMENDATION:** That Government continue to support the implementation of the new policies developed for victims of violence by Human Resources and Employment in its report, *Moving Forward, Responding to the Needs of Victims of Violence*.

¹²Justice Canada Technical Paper on Child Victims, Op. Cit. P. 13 noted that a national population survey, considering the experience of 7,000 sexually assaulted children and young people, disclosed that a larger proportion suffered emotional harms than physical injury. Footnote 30



5. SUMMARY OF RECOMMENDATIONS

REPORTING CHILD ABUSE

1. That the Department of Youth Services and Post-Secondary Education establish a working committee to investigate strategies to integrate more violence awareness education and training into all education for helping professions.
2. That the Child and Youth Advocate take the lead role in public awareness on children's rights.
3. That the Department of Health and Community Services continue to provide awareness to the public and professional community regarding the reporting of child abuse and the mandatory reporting law as outlined in the Child Youth and Family Services Act.
4. That the departments of Health and Community Services - Child Youth and Family Services, Justice and Education collaborate on a public awareness campaign on breaking the silence around child abuse.
5. That Child, Youth and Family Services, Health and Community Services, have a coordinated, provincial policy regarding reporting and assessment of suspected child abuse. Further, that all new staff be made aware of this policy on a regular basis and that care givers in the community be made fully aware of the policy and their options to report suspected abuse.

INVESTIGATING PROCEDURES WITH CHILD VICTIMS

1. That the Department of Health & Community Services and the Department of Justice continue to partner to ensure that the Collaborative Approach to the Investigation of Child Sexual Abuse maintains funding and resources to provide this training ongoing throughout the province.
2. That the partners to the Collaborative Approach to the Investigation of Child Sexual Abuse training program fund an external evaluation of the program as it relates to outcomes for children. This evaluation should be completed by March 31, 2003.
3. That the committee revising the MOU on a Coordinated Response to Child Sexual Abuse continue to receive support from their respective departments to move this process forward.
4. That when the Committee reviewing the MOU on a Coordinated Response to Child Sexual Abuse completes its work, all staff affected by the MOU should be provided a copy and explanation of same.
5. That dialogue occur between the Provincial Association Against Family Violence, and Health and Community Services - Child, Youth and Family Services, RNC and RCMP to discuss information sharing and ways in which it can be incorporated into any ongoing or new training programs of all those involved.



FACILITATING CHILDREN'S TESTIMONY IN COURT

1. That the Victims Services, Department of Justice, be extended to include services to children and their families.
2. That financial and human resources for appropriate staffing, accommodations and resource materials be allocated to cover the additional case load which will develop once children and their families are included in the mandate of Victim Services.
3. That the Department of Justice and courts collaborate on the development of standards for courtrooms and circuit courts. These standards should be widely circulated so that those items requiring minimal costs could be put into affect immediately. Further, that the Department develop a plan to phase in all standards over time.
4. That the Department of Justice offer awareness training and information for legal professionals and court personnel. This training and information would include due consideration for children.

SERVICES TO CHILDREN WHO WITNESS VIOLENCE

1. That Health & Community Services continue to provide services and support to women and children at shelters, and following their departure from shelters, if required. Further, that the Department discuss this policy with Regional Directors throughout the province to ensure there is consistency in this practice in the best interest of families.
2. That Health and Community Services liaise with the Janeway on its model for group work with children. Further, that this group model be offered to children in the remaining five health board regions.
3. That Health and Community Services, Child, Youth and Family Services, ensure that children and families who have experienced third party sexual assault have access to regionally-based mental health services and programs.
4. That the Department of Justice follow the example of other provincial jurisdictions and establish a Provincial surcharge on offenders. The funds collected through this surcharge should be used for additional services for victims, over and above those guaranteed under current Department programming.
5. That Government continue to support the implementation of the new policies developed for victims of violence by Human Resources and Employment in its report, Moving Forward, Responding to the Needs of Victims of Violence.

APPENDIX A

SUGGESTED STANDARDS FOR COURTROOMS AND CIRCUIT COURTS

JUSTICE ISSUES COMMITTEE, 2001

WAITING ROOM SPACE

Issue: Most court waiting areas are not conducive to children and also pose problems for women who are victims of violence in that they do not allow for separate waiting area from the women's accused offender and his supporters.

I. SAFE AND SEPARATE WAITING AREA

It is recommended that children and women have safe waiting rooms available so that they do not have to sit with the accused and his/her family and associates while waiting to enter the court. In the case of children, the room should be equipped with toys and books suitable for waiting areas. The ideal waiting area for a child would be in a child appropriate room in close proximity to the designated courtroom which would allow the child to enter the court through a side or back door. This is to avoid having to walk past others in the waiting room, and to limit the length of his/her walk through the court room. In some cases it may be prudent to have this room locked when not in use. A key to the room could be left with court staff. Crown, Defense, Victim Services or Child, Youth & Family Services could reserve the room as required. With these additions it could serve as a designated waiting area for children and women.

PHYSICAL LAYOUT OF COURT ROOMS

Issue: Children can often be intimidated by the physical layout of courts, by related procedures, and by the presence of their accused offenders. Everything possible should be done to facilitate their testimony in the most comfortable environment possible.

I. STANDARDS FOR CHILDREN

The following are recommendations for renovations to existing facilities

- ♦ A child witness should be provided with appropriate seating, consisting of a table and chair. A traditional witness box is not suitable for a child.
- ♦ The child should be seated as close as possible to the judge and not within eye range of the accused. The best scenario is to have the child's seating arranged so that his/her back is to the accused. Provision should also be made for seating of a support person for the child. Screens should be available to provide this division if seating does not result in the desired outcome.
- ♦ The overall esthetics of the courtroom should be child-friendly.

The following are standards when new construction or major renovations are in order:

- ♦ Judges' benches should be less formal and not elevated

- ♦ Carpet should be installed
- ♦ A table and chair be provided for the child in close proximity to the Judge, or
- ♦ A witness stand on lockable wheels would allow the stand to shift toward the judge and thus away from the Accused. This would avoid the use of a screen and avoid the victim having to see the Accused during her/his direct and cross examination.
- ♦ The spectators' gallery should be positioned behind the location of the child's seat
- ♦ The court should have the appropriate electronic equipment installed for close circuit TV and lapel microphones for the child
- ♦ A two way mirror could be installed to aid in child testimony

2. SCHEDULING OF COURT ROOMS

In court facilities with more than one court room, cases involving children should only be scheduled in a courtroom which meets the standards for child-friendly settings.

TESTIFYING PROCEDURES

Issue: In 1997 Bill C-27 came into force. Among other things, the sections of the Criminal Code involving testimony outside the courtroom, Subsection 486(2.1) allows a complainant or any witness under eighteen to testify from outside the courtroom or from behind a screen or other device that prevents him or her from seeing the accused. The Supreme Court of Canada has upheld the constitutionality of subsection 486(2.1). Application must be made to the judge for an order permitting testimony to be given in this manner. The issue today is that these provisions are not used in a consistent fashion in the court system.

The standards for testifying procedures for children should include:

- ♦ Courtrooms equipped with close circuit TV to an adjoining room.
- ♦ Video-taped interviews used more as a standard for receiving testimony of children. Their in court testimony can then consist of their validation of their participation in the video-taping.

PRE-TRIAL ARRANGEMENTS

Issue: There are a number of procedures to improve children's participation in the courts which are discussed with lawyers in pre-trial conferences on a case by case basis. It would be ideal if these discussions became a matter of course and discussed in all cases. There should be a standard check-list to be used in pre-trial meetings.

The following are some suggestions to be included in a check-list.

- ♦ Are there any issues between the Accused and Victim of which the court should be aware?
- ♦ Will security be required in the court room?
- ♦ Will a private waiting area be required?
- ♦ Is there a child witness who will require:
 - a support person close by?
 - to give testimony outside the witness box?
 - will there be applications for a closed court room, a screen or closed circuit TV?