



Department of Justice
Canada

Ministère de la Justice
Canada

BACKGROUND PAPER

VOICE AND SUPPORT: PROGRAMS FOR CHILDREN EXPERIENCING PARENTAL SEPARATION AND DIVORCE

2004-FCY-2E

Canada

**Voice and Support:
Programs for Children Experiencing
Parental Separation and Divorce**

Prepared by:
Pauline O'Connor
Independent Policy Researcher

Presented to:
Family, Children and Youth Section
Department of Justice Canada

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EXECUTIVE SUMMARY

The attention of Canadian policy makers is increasingly drawn to the needs and wishes of children during the separation and divorce of their parents. The Special Joint Committee on Child Custody and Access has recommended that children have the opportunity to “be heard when parenting decisions affecting them are being made.” In addition, the continuing high numbers of Canadian children experiencing parental separation and divorce have increased interest in programs to help them adjust to the separation process and the resulting changes in their lives, and to help them voice their needs and wishes in these situations.

This report discusses “adjustment” and “voice” programs separately, and shows how they are linked. It examines three main questions:

- What research exists on children’s needs during divorce and separation; the benefits to be gained by helping them adjust to both the separation process and subsequent family arrangements; and, on the benefits to be gained by giving them a voice in the decisions made about these post-separation family arrangements?
- What current programs, services or legal proceedings exist in Canadian and other jurisdictions to support children in either of these ways, including court-based and community-based programs?
- To what extent do existing services meet current needs, and what additional programs, services or legal proceedings would significantly help Canadian children experiencing their parents’ separation or divorce?

Children’s Adjustment to Separation and Divorce

The period during family breakdown has been shown to be the most acutely stressful for parents and children. Summaries of recent research conclude, however, that the duration of children’s acute stress is short. After their initial distress and difficulties, most children who experience parental separation and divorce will develop into adults without identifiable psychological or social scars or other adverse consequences. The research typically compares children’s adjustment with respect to such measures as anti-social behaviour, school achievement, and anxiety, depression and self-esteem. Long-term adjustment is measured largely by social and economic outcomes, including educational achievement, work force attachment and divorce rates. Since most studies are cross-sectional, short-term effects tend to be conflated with long-term effects. Few longitudinal studies exist, and these typically have small samples. Maladjustment is often measured in clinical terms. Longitudinal qualitative research on a small sample identified lingering lesser effects on children into adulthood.

Despite the positive prognosis for most children, researchers agree that separation and divorce increase the risk of poor long-term adjustment for children. Parental and circumstantial factors such as high parental conflict, family abuse and violence, economic hardship and the parents’ failure to adjust or to support the child, put children most at risk of poor adjustment. And the children’s responses or characteristics do not significantly affect their prospects.

However, one prominent researcher has identified six “tasks” of adjustment following separation that all children must accomplish in order to adapt successfully. Research shows that parents, struggling to adjust themselves, often cannot help, and may hinder, their children from achieving these tasks during the period of separation. Many of the programs developed over the last decade or so to help children adjust are designed to help them through these six tasks.

Programs to Help Children Adjust to Separation and Divorce

Court-connected and community-based programs for children are often linked with information, support or mediation programs for parents. These programs tend to be short-term (four to ten sessions) and age-based. There are five main types.

- Educational and information-based programs aimed at helping children understand the legal process, their parents’ behaviour and, most often, their own feelings and the implications of separation for their lives. Children and their parents generally respond well to these programs, but their impact on adjustment is unclear.
- Programs providing therapeutic emotional support aimed at helping children acknowledge and begin to work through their feelings. Children and parents generally respond well to these programs. Extensive research on one school-based program has shown some positive results.
- Programs providing peer emotional support aimed at providing a safe place for children to express and share feelings with other children and sympathetic adults. Participants respond well, but the tangible impact of these programs on adjustment is unclear.
- Programs that teach coping skills to children caught in the middle of parental conflict. Research shows that many children experience such feelings that can put them at risk. Extensive evaluation of the most prominent of these programs indicates that they can help reduce children’s stress.
- Therapy-based or clinical interventions usually targeted to children in acute distress or in high-conflict separating families. These programs try to help children work through difficulties typically resulting from their parents’ intense conflict and hostility, and their resulting inability to recognize their children’s needs. Evaluations of these programs, usually linked to parent programs, focusses largely on parental success in reaching agreements.

There is strong support for these programs among service providers, parents and many experts, despite the modest evidence of their direct effects on children. Some experts argue that it may be more effective to focus on the children’s responses to separation and divorce, given the difficulty of influencing parents’ attitudes and behaviours. Moreover, even small changes in the child’s responses may facilitate and encourage the parents’ adjustment.

There are several of these programs across Canada, mostly in major cities and the larger provinces. Providers report a need for more of all five types of programs. They generally endorse involving parents in some way in the children’s programs, although not necessarily through complementary or linked parent programs.

Including Children's Voices in Custody and Access Proceedings

Commentators propose rights-based and interests-based reasons for including children's voices in custody and access proceedings. The rights-based reason, articulated by the 1989 United Nations Convention on the Rights of the Child, is that children are *entitled* to have a say in decisions that affect their lives. Interests-based reasons assert that allowing children to have a voice serves their best interests, both by its benefits to the children themselves and by its effect on custody and access decisions.

Although several jurisdictions explicitly require judges to weigh children's own wishes in custody and access judgements, most custody and access decisions are made outside the courtroom by parents, who presumably understand their children's best interests and will act according to them. However, many commentators and researchers doubt that parents or the courts always know the children's best interests. Parents may be out of touch because of their own adjustment struggles, and judges tend to assume that parents' and children's interests coincide and may have difficulty identifying the children's best interests separately.

The scant existing research on children's desire to be included suggests that they want to be kept informed about the process, and want their needs and interests heard. Adolescents, in particular, are much more likely to want to be present when major decisions affecting them are made, and to want to express explicit preferences about these decisions. Some research suggests that including children's voices enhances their sense of control over their fate, and thus their resilience.

Canadian federal and provincial legislation permits children to participate in custody and access proceedings, but does not specifically provide for it except in Quebec, where children must be given an opportunity to be heard if their age and power of discernment allow it. This report examines whether, and how, children's voices could be included at several points in custody and access proceedings.

Mediation and Counselling

Commentators and researchers are divided over whether, and how, children should be included in their parents' mediation and counselling concerning custody and access disputes. Proponents argue that including children gives them a sense of control over their fate, a place to express and deal with feelings they may not be expressing to their parents, and lets them know what is happening. In addition, they often argue that children have a right to be heard. Opponents say that including children makes them feel responsible for making the decisions, and exposes them to parental anger, retribution, manipulation and greater inter-parental conflict.

More commentators endorse children's inclusion when it is indirect, for example, when children meet separately with the mediator, or meet with their parents in a group of children and parents, or when counsellors meet with parents at the conclusion of a program to help children's adjustment. A few commentators argue that the benefits of putting children directly into mediation at its most difficult moments (e.g. when breaking an impasse) outweigh the psychological costs to them. Many commentators caution that in whatever way younger children are involved, their wishes should always be balanced against other considerations, because their wishes may not be authentic.

Interviews with provincial court officials indicate that court-based practitioners rarely include children in mediation, especially younger children, and that many believe doing so harms them. The literature suggests most mediators are reluctant to include children and some think it puts them in a conflict of interest. Some preliminary evidence suggests that including children *indirectly* in mediation may not generally harm them and may serve their interests.

Custody Assessments

Children's needs and interests are inserted into custody and access proceedings most consistently through family or custody assessments. Courts (and sometimes parents) typically use the assessments, prepared outside the courtroom, to make decisions without the necessity of having the child present.

There is no agreement about whether custody assessments are an effective vehicle for hearing children's voices. Proponents say assessments allow the children's voice to be heard without exposing them to harm from parents or from courtroom participation. Opponents argue that assessments, usually conducted by a social worker, and less often by a psychologist or psychiatrist, leave too much room for experts' biases, experiences, training and values in shaping the conclusions. Opponents also caution against placing too much weight on younger children's wishes because they may not be authentic. Finally, they argue that repeated expert interviewing may traumatize children in those protracted disputes in which assessments tend to be commissioned.

Interviews with provincial court officials indicate that a small proportion of Canadian families with disputes before the courts receive assessments. Assessments usually take the traditional form, i.e. children are interviewed with one or both parents if age permits, or observed with parents in the home if they are very young. However, use of focussed assessments appears to be growing. Focussed assessments limit assessment to one or two specific issues, rather than broader issues of, for example, residence and access. They were pioneered in Ontario with high-conflict families, and usually include interviews with the child alone, parent/child interviews, and interviews with parents and child. They appear to be useful in revising specific aspects of custody and access agreements made when the children were younger and have outgrown. They give older children, especially, a more direct way to express their wishes. British Columbia also uses short reports to solicit older children's wishes in disputes in which a full assessment is not justified.

Integrated Assessment and Legal Representation

Some jurisdictions have developed programs that integrate family assessment with separate legal representation for children in high-conflict families entrenched in litigation. Examples include social work and teams of lawyers in Ontario's Office of the Children's Lawyer and the model of separate children's representatives endorsed by the Family Court of Australia. Integration of the two functions may allow children's voices in assessments to influence legal negotiations prior to final hearing, with the result that more agreements are reached without a final hearing, and the agreements that are reached better reflect and serve the children's best interests.

Children’s Coordinators

Some jurisdictions are showing increased interest in developing specific mechanisms to ensure that children’s voices are heard safely (indirectly) and consistently in custody and access hearings. One possibility is the appointment of “child’s interest coordinators” to oversee and manage complex cases. The effectiveness of such specific mechanisms has not been tested.

1. INTRODUCTION

Children have traditionally been invisible spectators to the public proceedings of their parents' separation and divorce, and have been left to weather its emotional turmoil largely unaided. The legal processes of custody and access decision-making have been considered the exclusive responsibility and have largely excluded children, even though children's best interests are now expected to govern custody and access decision-making.

However, the attention of Canadian policy-makers is being increasingly drawn to children's needs and wishes during parental separation and divorce. The continued high numbers of Canadian children now experiencing the separation and divorce of their parents, and at younger ages, have prompted greater interest in programs and services to support children through the process and later. The 1989 signing of the *United Nations Convention on the Rights of the Child* stimulated a growing concern for, and commitment to, allowing children more say in judicial and administrative proceedings and decisions that affect their lives, including custody and access decisions. As a result, the Special Joint Committee on Child Custody and Access recommended that children have the opportunity to "be heard when parenting decisions affecting them are being made" and to "express their views about the separation or divorce to skilled professionals whose duty it would be to make those views known to any judge, assessor, or mediator making or facilitating a shared parenting determination" (Special Joint Committee 1998).

Although providing supports for children experiencing their parents' separation or divorce and including their voices in custody and access proceedings are independent issues, the research presented in this paper shows they are linked. Programs to support children may also indirectly allow their voices greater hearing in custody and access proceedings, and proceedings that include children's voices in some capacity may enhance their well-being and adjustment. Moreover, the children's role in the public process of custody and access proceedings, and the private process of family adjustment, can take many forms. The main task for policy makers is to identify programs that support children, and that incorporate their voices into public proceedings, in ways that enhance their adjustment and serve their best interests.

This report examines three main questions:

- What research exists on children's needs during divorce and separation; the benefits to be gained by helping them adjust to both to the separation process and subsequent family arrangements, and, on the benefits to be gained by giving them a voice in the decisions made about these post-separation family arrangements?
- What current programs, services or legal proceedings exist in Canadian and other jurisdictions to support children in either of these ways, including court and community programs?
- To what extent do existing services meet current need, and what additional programs, services or legal proceedings would significantly help Canadian children experiencing the separation and divorce of their parents?

Section 2 of this report looks at research on the impact of divorce and separation on children, and on children's responses to separation and divorce, and outlines children's needs that can be addressed by programs specifically for children. Section 3 and Appendices A and C describe the main programs delivered by courts and community agencies in Canada and (largely) the United States, as well as evaluations of their effectiveness.

Section 4 outlines the reasons for including the children's voices in custody and access proceedings, and the general issues involved in deciding when and how their feelings and wishes ought to be included so that their best interests are served. Section 5 and Appendix B outline the research and expert debates on how and when to include children in custody and access proceedings, such as during mediation and family assessments. The section also describes the extent to which Canadian children are currently included in these proceedings.

The project gathered information by means of a survey of the existing social science and family law literature, a Web site survey of programs for children (mostly North American), and informant interviews with more than 30 community program service providers, court officials, provincial government representatives and published experts in the field. Nearly all the key informant interviews were conducted by telephone. A few were conducted by e-mail.

2. CHILDREN'S RESPONSES AND ADJUSTMENT TO PARENTAL SEPARATION AND DIVORCE

The research literature on the effects of separation and divorce on children's adjustment, and on children's responses to these events, indicates that the needs of children living through family breakdown vary with age and circumstance. The research also indicates that many parents are not able to meet these needs, especially during the period immediately after separation.

Family breakdown is typically very stressful for parents as well as children. Researchers agree that this period produces acute emotional and psychological disturbance for most parents and children (Lamb et al. 1997). Most children are acutely distressed during the first year or so after separation (Lamb et al. 1997). Some researchers have found acute symptoms and stress among children still at peak levels two years after their parents' separation (citations in Lamb et al. 1997), and one study found children and parents *less* distressed two months after separation than they were a year later (Hetherington et al. 1992, cited in Grych and Fincham 1992).

Still, a recent summary of more than 200 research reports (mostly from the United Kingdom) concluded that children's stress is usually short-term and usually fades over time (Rodgers and Pryor 1998). Similarly, a group of American experts recently concluded that, after their initial distress and difficulties, most children who experience parental separation and divorce will develop into adults without identifiable psychological or social scars or other adverse consequences (e.g., Lamb et al. 1997; Kelly 2000; Kelly 1993; Amato 1994).

2.1 INITIAL RESPONSES OF CHILDREN AT DIFFERENT AGES

The research suggests that children's responses to their parents' divorce and separation vary widely. Indeed, some children may become happier and less distressed when their parents separate (Amato 1994). Nonetheless, studies have identified general pathways of children's reactions in the first two years after parental separation and divorce, based on gender and stage of development (age) (see citations in Hodges 1991; Amato 1994). Almost no research exists on infants' or college-aged children's responses. For children between these ages, the responses can be summarized as follows.

- Preschoolers (2 to 5 years). These children are too young to grasp the meaning of divorce, and so are likely to become confused and fearful of losing their other parent too. They tend to blame themselves for their parents' divorce. Many regress developmentally, becoming aggressive and throwing tantrums, especially boys.
- Younger elementary school-aged children (5 to 8 years old). These children can understand the meaning of divorce enough to become depressed (Kelly 1988, cited in Di Bias 1996; Hodges 1991), grief-stricken and sad over the loss of family. Many continue to wish for parental reconciliation. They may also feel profound conflict of loyalties (Peterson and Zill 1986, and Brady et al. 1986, cited in Fischer 1997). They are egocentric enough to see divorce as a personal rejection, but may be mature enough to place the blame elsewhere, usually on a parent. Studies show that children at this age may suffer in school and in their social relationships (Demo and Adcock 1988, and Bloom and Dawson 1991, cited in Di Bias

1996). Half of their teachers in one study reported behaviour changes (see citation in Hodges 1991).

- Older elementary school-age children (9 to 12 years old). These children may also be depressed, sad and grief-stricken, but are also more likely to blame and be angry with one or both parents. Children at this age can also see the world from the parents' point of view, however, and may start to parent a struggling parent or younger siblings.
- Adolescents (12 to 16 years old) are less dependent on the family, and therefore divorce would seem to be less significant to them. Still, self-esteem drops for many teenagers (but more so for children) during parental divorce. It may lead adolescents to question their own future ability to maintain a long-term relationship with a partner, and many feel considerable anger towards one or both parents. Also, divorce may trigger delayed or accelerated entry into adolescence. At the extreme, adolescents may become suicidal or delinquent (McKinnon and Wallerstein 1986, cited in Di Bias 1996).

2.2 CHILDREN'S RESPONSES TO FURTHER TRANSITION AND CHANGE

Studies also show that parents' remarriage and the birth of more children to the remarried parent can be very distressful for children of the first marriage (and have lasting impact on their long-term adjustment). Parents' remarriage when children are adolescents, in particular, tends to result in more sustained problems in family relationships and the adolescents' adjustment (e.g. Hetherington 1991, cited in Bray and Hetherington 1993). Some researchers have found that young children who appear to have adapted well to their new family situations may have re-emerging problems at adolescence (Bray and Berger 1992, cited in Bray and Hetherington 1993). The step-families themselves tend to be less cohesive, more distant in their relationships, more flexible in response to change, and lacking in clear role expectations (see citations in Bray and Hetherington 1993). They are also more susceptible to stress (Anderson and White 1986, cited in Bray and Hetherington 1993).

Even when no critical events re-ignite their distress, some children experience ongoing difficulties after family breakdown that result in poor adjustment and a difficult adulthood. The factors found to produce poor outcomes tend to be present either before, during or after separation, or to arise in the context of children's post-separation lives. These are discussed in the next section.

2.3 CHILDREN'S LONG-TERM ADJUSTMENT

A substantial body of research exists on the impact of divorce and separation on children's adjustment. This research is typically cross-sectional, and aims to identify comparative levels of adjustment for children of parental separation and divorce, and the factors associated with poor outcomes. Standard measures of adjustment for children during childhood include anti-social behaviour, decline in school achievement, and states of anxiety, depression and self-esteem. Measures of long-term adjustment are largely social and economic, including educational achievement, work force attachment and divorce rates. Since much of the cross-sectional

research uses the basic categories of divorced/not divorced, short-term effects are often conflated with long-term effects.

Early studies showed that children of divorce were more likely to exhibit aggressive, impulsive and anti-social behaviour, to have more social difficulties, to be less compliant to authority, and to show more problem behaviours at school (e.g. Camera and Resnick 1988; Emery 1988; Hetherington et al. 1982; Kurdek and Berg 1983; Warshak and Santrock 1983; Zill 1983; cited in Kelly 1993). They have also been shown to have lower academic achievement, more negative self-concepts and more problematic relationships with both mothers and fathers (Amato and Keith 1991, cited in Amato 1994). As adults, they have been shown to have lower psychological well-being, less education, less marital satisfaction, more behavioural problems, more risk of divorce and poorer physical health (Amato 1994). One recent longitudinal British study found the odds ratio for being above the clinical level on mental health problems was 1.70 at age 23 and 1.85 at age 33 (Rodgers et al. 1997, cited in Wolchik et al. 2000).

Recent surveys of the literature show that, overall, there is a greater probability of poor outcomes for children from separated families, and that these can be observed many years after separation, even into adulthood (Rodgers and Pryor 1998; Kelly 2000; Amato 1994). However, more recent studies, and studies with more sophisticated methodology, report fewer differences between these two groups than did earlier studies, and that the size of the differences is small (Kelly 2000; Amato 1994). For measures such as self-esteem, most studies indicate no difference between children and adolescents of divorced families and children whose parents are still together, after temporary declines at separation (Kelly 1993). Most divorced children fall within the average range of adjustment on standardized measures (Amato 1994). Even some of the effects persisting into adulthood eventually seem to dissipate. The mental health risks of British children of divorce escalated into adolescence and young adulthood, but by age 33 most persons who experienced parental divorce as children were not distinguishable from children from never-divorced families (Chase-Lansdale et al. 1995, cited in Rodgers and Pryor 1998).

This said, researchers believe that aspects of the divorce experience clearly increase risk for many children, particularly for those who face greater risks when their parents separate and divorce (Emery 1999; Hetherington 1999; McLanahan 1999; cited in Kelly 2000).

In addition, qualitative studies have identified persistent, emotional issues for children of parental divorce and separation that follow them into adulthood. For example, one prominent Californian study found that 40 percent of the children were still depressed five years after the divorce (Wallerstein and Kelly 1980, cited in Di Bias 1996). Ten years after the separation, the children still felt sad, regretful or “different,” and were concerned about the risks involved in future marriage themselves (Wallerstein and Kelly 1980, cited in Pedro-Carroll and Cowen 1985). In adulthood, only 60 percent of them were married, compared to 80 percent from intact families, and 38 percent had children, compared to 61 percent of children from intact families (Wallerstein et al. 2000, cited in Anon 2000). Another recent study found that college students whose parents divorced before they were adolescents reported more painful childhood experiences than children from intact families, but they did not differ in measures of depression or anxiety (Laumann-Billings and Emery in press, cited in Kelly 2000).

2.3.1 Adjustment by Gender, Age and other Characteristics

The most recent research would appear to contradict the conventional view that divorce has more negative impacts on boys than on girls. One meta-analysis of studies that distinguished the impacts of divorce on girls and boys found more negative impact on boys than on girls, but only with respect to certain measures: social relationships, loneliness and cooperativeness. In other areas, such as academic attachment, boys suffer no more detrimental consequences than girls do (Amato and Keith 1991, cited in Amato 1994). However, a large nationwide study in the United States recently found no gender differences linked to divorce (Vandewater and Lansford 1998, cited in Kelly 2000; Rodgers and Pryor 1998). Another study found that adjustment and achievement in boys and girls after their parents' divorce varied by age, time since the divorce, type of parenting, and the type and extent of parental conflict (Hetherington 1999, cited in Kelly 2000).

Younger children's responses to their parents' separation seem more acute, and early studies showed that divorce had the most adverse impact on young children (e.g. Allison and Furstenberg 1989, cited in Grych and Fincham, 1992). However, many studies confound children's age at the time of divorce with the length of time passed since divorce, and age of assessment (Grych and Fincham 1992). The recent survey of largely British studies concluded that the child's age at the time of parental separation is not important in itself (Rodgers and Pryor 1998). One North American study found that young adults in low-conflict divorced-parent families were less well-adjusted than youngsters in high-conflict families whose parents divorced (Amato et al. 1995, cited in Kelly 2000). The California study found that after 10 years, the children who were younger at the time of separation had adjusted better than children who were older at that time (Wallerstein and Blakeslee 1989, cited in Amato 1994).

Multiple divorces also can expose children to repeated episodes of conflict, diminished parenting and financial hardship. For some children the stress of divorce therefore accumulates through childhood as it repeats (Amato 1994; Rodgers and Pryor 1998). The risk of adverse outcomes for children in stepfamilies compared to children in lone-parent families appears higher for older children, especially in lower school achievement, problems with sexual activity and forming relationships (Rodgers and Pryor 1998).

Individual children's resilience also affects the likelihood of their positive long-term adjustment. Children in high-conflict families, or with a poorly adjusted primary parent, may still fare well because of inner resources. There is no way to predict how two individual children in similar circumstances will fare (Fischer 1997). Some experts have proposed more adaptable temperament, higher intelligence, and better coping skills as indicators of more resilience (Johnston 1994). One study found that children's temperaments did not affect their behavioural adaptiveness after parental divorce when they had social supports, but did affect their capacity to withstand the divorce without social supports (Hetherington 1989, cited in Grych and Fincham 1992). Resilience is thought to have its roots in the child's early attachment to a parent or parent figure (e.g. Rutter 1979, cited in Kelly and Lamb 2000). Nevertheless, intervention can enhance resilience.

2.3.2 Research Limits

There is relatively little research on how divorce and separation affects non-white, non-middle class children. Most existing English-language studies are about American children. Some research in the U.S. shows that African-American children are put less at risk by having a single parent and by post-separation poverty than are white American children and African-American children in intact families (see citations and discussion in Amato 1994).

Recent research is cautious about attributing the poor outcomes experienced by some children of divorce to the separation and divorce. It is also cautious about identifying the individual factors operating before, during or after the divorce which determine poor outcomes (Rodgers and Pryor 1998). Several factors do emerge as important, although their interrelationship is unclear. Moreover, researchers are also studying how positive factors can buffer children against negative factors (e.g. Wolchik et al. 2000).

Based on existing largely cross-sectional studies, children's acute distress at the time of parental separation, and their later responses to their resulting residential arrangements, are not important factors in children's long-term adjustment. However, there has been little exploration of the effects of children's acute distress at parental separation (the critical event for them) on their long-term adjustment (Grych and Fincham 1992). The authors of the comprehensive British study called for more research on how short-term distress may affect long-term outcomes (Rodgers and Pryor 1998).

2.3.3 Custodial Parent's Adjustment

Current thinking supports the widespread view that the custodial parent's adjustment is a key factor in children's long-term well-being. Children with poorly adjusted custodial parents are at much higher risk of faring poorly (citations in Kelly 2000). Children are more likely to fare well when the custodial parent is in good mental health, has good social supports and has good child-rearing skill, i.e. is affectionate, supervises the child adequately, exercises some control, explains rules, avoids harsh discipline and disciplines consistently (e.g. Wallerstein 1986-87; see citations in Amato 1994, Hetherington 1999, Buchanan et al. 1996, cited in Kelly 2000).

Another recent study has shown that children in lone-parent families whose mothers discipline consistently and accept their child—the two key features of authoritative parenting—have fewer internalizing (e.g. depression) and externalizing (e.g. truancy) problems than children whose mothers do not (Wolchik et al. 2000). The custodial parent's consistent and accepting parenting therefore seems to buffer children against adverse effects from other sources of stress, such as economic hardship. Children who perceive low acceptance and less consistency from parents become more vulnerable to stress, and the children perceiving low acceptance and consistency who experience many stressors are the most vulnerable of all (Wolchik et al. 2000).

2.3.4 Access to the Non-Residential Parent

Existing research offers no consensus on the importance of children's ongoing relationship with their non-residential parent, typically the father (see citations in O'Connor 2001; Kelly 2000). Most large-scale studies using a national database have found no relationship between frequency of access parent's visits and child adjustment (Kelly 2000). However, several studies report positive outcomes for children in cooperative, low-conflict families in which fathers are involved

with their children (citations in O'Connor 2001, and in Kelly 2000). Children are more likely to fare poorly with fathers' ongoing access in certain high-conflict families, especially boys in these families (O'Connor 2001). One meta-analysis of 57 studies also found that more recent studies of father-child contact provide stronger evidence of the father's impact on children's adjustment than do earlier studies (Amato and Gilbreth 1999, cited in Kelly 2000). The overview of largely British studies concluded that continuing contact with the non-residential parent may benefit children's adjustment, but there is no simple relationship with frequency of contact (Rodgers and Pryor 1998).

The ongoing involvement of non-residential parents with their children does seem to be clearly linked to their academic achievement. Children's academic functioning declines less when fathers are involved with the child's school and schoolwork after separation (McLanahan 1999, cited in Kelly 2000). Children of divorce are also less likely to earn a university degree, in part because parental aspirations for educational achievement increase for adolescents in never-divorced families, but decrease for adolescents in divorced households (McLanahan 1999, cited in Kelly 2000). The California study also found that the divorced fathers were often unwilling to fund their children's post-secondary education, especially if they had remarried and had other children (Wallerstein and Lewis 1998).

2.3.5 Post-Separation Conflict

A growing body of literature affirms that post-separation conflict among parents increases children's risk of poor outcomes. Children whose parents remain hostile and aggressive, locked in ongoing high conflict are more likely to have behavioural problems, emotional difficulties and social difficulties (Johnston 1994). They are also more likely to lack self-esteem (Kelly 1993). The risk of poor outcomes increases when spousal violence is involved, and rises even higher when the children are abused (Johnston 1994). Even so, studies have found that overall adjustment scores for most children of chronically-litigating, high-conflict post-divorce families also fall in the normal range (Johnston et al. 1989, cited in Kelly 1993).

Longitudinal studies have found that some difficulties observed in some children of divorce existed prior to divorce (e.g. Elliott and Richards 1991, cited in Kelly 1993), suggesting that the factors producing these difficulties may pre-date the divorce or separation. The recent analysis of British studies concluded that family conflict before, during and after separation can be stressful for children. There is no agreement about whether children's maladjustment resulting from parental conflict is largely a result of conflict during the marriage or after its break-up (Rodgers and Pryor 1998).

2.3.6 Economic Hardship

Divorce and separation often produce a substantial decline in the children's standard of living, increasing economic instability and stress in the custodial home. These changes intensify the stress of separation's disruptiveness for children and affect their long-term adjustment (Kelly 1993; citations in Amato 1994). Studies have shown that custodial mothers' incomes drop by an average of 30 percent in the United States after divorce (Lamb et al. 1997). In Canada, incomes of women who separated from their spouses in the mid-1990s dropped an average of 23 percent during the first year (adjusted for the number of people they had living with them), and by the

end of the first year, single mothers' average incomes were 31 percent less than their pre-separation income (Galarneau and Sturrock 1997).

One U.S. study found that income differences after separation accounted for about half the association between living in a single-parent family and completing high school among white families (McLanahan 1985, cited in Amato 1994). More recently, it has been estimated that the economic problems of divorced households account for as much as half of the adjustment problems seen in divorced children (McLanahan 1999, cited in Kelly 2000). Another study found that divorced children's poorer showings on 27 out of 34 outcomes, dropped to 13 when income differences were taken into account (Guidubaldi et al. 1983, cited in Amato 1994).

Custodial mothers also experience high rates of job instability and changes in residence in the first three years after the separation (McLanahan and Booth 1989, cited in Bray and Hetherington 1993). Many mothers move to poorer neighbourhoods, with fewer services and supports. Children are pulled away from their friends, other social supports and familiar surroundings. (Access parents may also move to different neighbourhoods, with similar, if less harmful, results for the children.)

2.4 LONG-TERM ADJUSTMENT DIFFICULTIES STEMMING FROM THE CHILDREN THEMSELVES

The results of the cross-sectional research suggest that long-term adjustment of children of divorce is best fostered by programs that help their parents' adjust, address social and economic stressors, reduce inter-parental conflict and recurrent litigation over custody and access, and foster cooperative post-separation parenting arrangements with strong ties between children and both their parents.

However, as indicated earlier, the links between children's acute distress during parental separation and their long-term adjustment have yet to be fully explored. For example, the more acute a child's distress, the more difficult it may be for the mother to recover her own equilibrium and maintain positive relationships with her child (Wolchik et al. 2000).

Other research also indicates several ways in which children's own responses to the separation and later circumstances can affect their adjustment. This research provides a rationale for specific programs for children during parental separation, and in later years.

2.4.1 Six "Tasks" of Adjustment

Prominent researchers agree that children who do not rebound from their initial distress and difficulties at the time of their parents' separation, or during subsequent critical events, can be expected to face difficulties later on, often in adulthood (Lamb et al. 1997). Qualitative researcher Judith Wallerstein has developed a list of six "tasks" that children must accomplish during the separation period and after, in order to stay on their developmental paths and mature into well-adjusted adults (Wallerstein 1983). Children need to complete the following tasks regardless of the number and kind of external stressors in their post-separation family arrangements:

- acknowledge the reality of the separation;

- disengage from parental conflict and distress, and resume customary pursuits;
- resolve their loss;
- resolve anger and self-blame;
- accept the permanence of the divorce or separation; and
- achieve realistic hope regarding relationships.

In Wallerstein's view, high priority should be given to ensuring that parents' and children's acute distress responses to separation and divorce do not consolidate and become chronic (Wallerstein 1991), making them harder to root out later.

The tasks fall in a sequence with varying time spans for each. The first two tasks, for example, should be mastered immediately to maintain the child's academic and developmental progress (Wallerstein 1983). These tasks have become the basis of many of the programs currently providing support to children experiencing parental separation and divorce (see e.g. Fischer 1997).

Clearly, children need cooperation from family and environment to accomplish some of these tasks. For example, parents who continually engage their children in their intense conflicts, or in family violence or bullying, will make it virtually impossible for the children to resume their cognitive, emotional and behavioural development at school and elsewhere. Similarly, parents who blame their children for the separation, or for their own failure to recover emotionally from the rupture, will make it extremely difficult for their children to stop blaming themselves. Interventions may be needed to help children get back on their development pathway in spite of their parents' negative influence.

Parents and outsiders may also be positive forces in helping children accomplish these tasks. For example, parents and outsiders can successfully reassure small children that they are *not* responsible for the separation and that they are still loved (Hodges 1991). Interventions may therefore be able to help children accomplish all these tasks, especially during the period of parental separation.

2.4.2 Increasing Coping Capacity

Research also suggests that children in difficult post-separation circumstances may be able to offset the effects of some stressors by increasing their coping skills and their resilience to adversity. Much of this research has focussed on children in high-conflict families. Early studies on high-conflict post-separation parenting indicated that all children in such families were at risk of poor long-term adjustment. Other research, however, narrows the negative impacts to high-conflict families in which the conflict prevents parents from cooperating in their post-separation parenting (Camera and Resnick 1989, cited in Kelly 1993; Amato and Rezac 1994). Some parents are able to find ways to cooperate in their post-separating parenting in spite of their intense conflicts. Parents who cannot do this tend to make their children pawns in their own conflict. Studies show that children are at risk when the ongoing high conflict results in the

child feeling caught in the middle (Buchanan et al. 1991; Johnston et al. 1989, cited in Kelly 1993).

These studies measured “feeling caught” according to how often one parent asked the child to carry messages to the other parent, asked intrusive questions about the other parent, or made the child feel that he or she had to hide information or feelings about the other parent. One study showed that adolescents in high-conflict families were more likely to feel caught than adolescents in low-conflict families, but that 40 percent of the high-conflict families were still below the median on “feeling caught” (Kelly 1993). The research implies that helping children learn ways to stay out of their parents’ conflict insulates them against it and allows them to get on with their own development.

Some researchers have also argued that specific children’s programs are worthwhile even though their adjustment is largely determined by external factors, because children’s responses may be more amenable to change than these circumstances (Grych and Fincham 1992).

2.4.3 Understanding the Separation and Divorce, Including the Legal Processes

There is little research on children’s own perspectives on their experience of divorce and separation. What research exists indicates that children are often misinformed about divorce as an event and a process (Pruett 1999). Moreover, what they do know is often inappropriate, frightening and confusing (Pruett 1999), and is likely to exacerbate their distress.

There is considerable evidence that many parents do not talk with their children about the significance of the separation and the attendant legal processes (e.g. Mitchell 1985, Walczak and Burns 1984, cited in Garwood 1990; Lyon et al. 1998; Wallerstein and Lewis 1998). Children interviewed during a recent evaluation of Scotland’s *Parent Information Programme* for divorcing and separating parents, for example, reported that most of their parents had not discussed the issues surrounding the divorce with them in any great detail (Mayes et al. 2001). Only one third had talked to their children about their own feelings, and a similar proportion said they had discussed their child’s feelings in relation to the separation (Mayes et al. 2001). Yet, one half of the 84 Scottish parents who refused to involve their children in family conciliation at the Lothian Family Conciliation Service near Edinburgh between 1986 and 1988 (slightly more than half the parents in the two-year study) considered it unnecessary, saying they could speak with their children themselves (Garwood 1990).

One recent in-depth study of 22 Connecticut children found, however, that children nonetheless patch together images of the divorce process from listening to their parents, their own experience of the court process, and televised court processes (Pruett 1999). But confusion about what the divorce meant was the rule rather than the exception. Blame, loss and fears of separation and abandonment were frequent themes, especially among children in high-conflict families. The children’s own perception of parental incompetence became jumbled with their understanding of the legal process of separation, so that the parents’ physical separation and the attendant court processes were equated with loss of the relationships with their parents.

Children also felt violated and betrayed by lawyers and court officials who “took their parents’ money,” or “made orders that made their parents fight,” while “pretending” to help the family. They had too much information about the court process that was not helpful and too little that

was (Pruett 1999). The authors concluded that parents and legal professionals should be helped to understand what children need to know and how to provide that information to them.

The recent British study also concluded that clear explanations about “what” is happening and “why” can help maintain communication and contact between children and parents during the stressful time of divorce. Keeping children informed can also reassure young children that they are not being abandoned and that a parent can still be a parent even if he or she leaves the home to live elsewhere (Rodgers and Pryor 1998). The first two of Wallerstein’s six tasks also imply that children must be told the significance of their parents’ separation as it is taking place. Other experts argue that even pre-schoolers have strong needs for information about their parents’ separation (Hodges 1991).

Teenagers and young adults who are asked to comment on their experiences during their parents’ separation and divorce complain strongly about having been left in the dark (Lyon et al. 1998; Wallerstein and Lewis 1998). Not knowing what was happening left these children resentful and angry long after their anxiety and fears caused by the separation had dissipated.

There are no clear links between children’s emotional understanding of parental separation (which one would hope their cognitive understanding would facilitate) and their adjustment. Evaluation in the 1980s of a children’s program found no connections between the child participants’ emotional understanding of divorce (that they were not to blame, that reconciliation was unlikely, but that they would not be abandoned) and their emotional and behavioural adjustment (Roseby and Deutsch 1985, cited in Grych and Fincham 1992). Children in the program did improve their understanding, but this made no difference to their adjustment compared to that of children in a control group. On the other hand, the other children’s mere participation in a placebo control group may have affected *their* adjustment (Grych and Fincham 1992).

2.5 PARENTS’ CAPACITY TO HELP CHILDREN ADJUST

Parents would seem to be the obvious ones to help children accomplish their “six tasks” and rebound from their acute distress at their parents’ separation. Research does show that supportive parenting during this time buffers children against acute stress (Brown 1995; Bray and Hetherington 1993; Tschann et al. 1990, cited in Bonney 1993), just as well-adjusted parents foster children’s longer term adjustment.

However, research also shows that parents generally are least able to help their children during this time. Many researchers believe that parents’ capacity to nurture and protect their children diminishes markedly in the year or two following separation and divorce (e.g. Wallerstein and Kelly 1980, cited in Wallerstein 1986-87, 1991; Lamb et al. 1997; Amato 1994). Parents are overwhelmed themselves, and so have less time, emotional energy, and attention for their children when their children need it most.

Custodial mothers complain of economic distress, task overload, child-rearing distress and social isolation in the immediate aftermath of divorce (Hetherington et al. 1982, cited in Bray and Hetherington 1993). Both mothers and fathers, regardless of custodial arrangements, are more

likely to have physical and psychological problems just after the separation or divorce (Hetherington and Hagan, 1986, cited in Bray and Hetherington 1993).

As a result, parents may become less warm and supportive toward their children, less sensitive to their needs, and more erratic in exercising parental authority. Research has shown that parents spend less time with their children, become more erratic or lax in supervising their children, and get angry with them much more often during the first year or two after the separation or divorce (Hetherington et al. 1982, cited in Wallerstein 1991). One researcher believes that some parents may unconsciously (or even consciously) want to abandon the child as part of erasing memories of the unhappy event. Other parents may become more attached to their children, but in a dependent way, so that the child starts to feel responsible for their well-being (Wallerstein 1986-87). In her longitudinal study of 130 divorced or separated families in California, Wallerstein identified three related family functions that she concluded combine to protect the child in normal circumstances: (1) a reasonably harmonious relationship between the parents involving mutual support; (2) a reasonably sensitive and disciplined parent-child relationship, and (3) a reasonably psychologically intact, moral parent. Her study also found that all these functions were under assault during divorce and separation (e.g. Wallerstein 1986-87, 1991).

One result of their diminished parenting capacity is that parents get out of touch with their children's needs and feelings (Mitchell 1985, cited in Garwood 1990; Wallerstein and Kelly 1980, cited in Wallerstein 1991). They not only support their children less, they are also less likely to see that they need support. Wallerstein gives an example from her research of parents in mediation who were focussed on issues of what diet the children should have during visits. Meanwhile, one of the children was increasingly unable to distinguish his fantasies from reality and the other, when asked to draw her family, drew only a scrawny black rat, a warning signal of acute distress (Wallerstein 1991).

The research shows that one reason parents fall out of touch with the children is lack of parent-child communication during the period of separation and divorce. Moreover, this lack of communication often includes an absence of explanation about the separation or divorce, as indicated above (Mitchell 1985, Walczak and Burns 1984, cited in Garwood 1990).

Parents are often equally unaware during this period of the harmful effects their own behaviour may be having on their children. Research shows that parents typically underestimate or ignore the effects of their conflicts with the other spouse on their children. They also fail to realize they are putting their children in the middle of their conflict by demanding sole loyalty or by using the child to spy on or undermine the other parent (Arbuthnot and Gordon 1996; Arbuthnot et al. 1997).

Far from being able to help their children during the period of initial separation, many parents add to their children's stress. The research suggests that one effective way to help children during this time is to help parents recover from their own distress as quickly as possible, by reducing some of the stresses they face. Also, parenting programmes aim to focus parents on their children's needs and best interests during this period so they are better able to respond to them.

Nevertheless, given many parents' diminished capacities during this time, external supports are needed to help children understand what is happening to them, how to come to terms with the situation, and how to get through their distress. The primary needs seem to be threefold: (1) to reduce children's acute stress to help them sustain positive relationships with their parents and reduce the possibility that this stress will prevent them from accomplishing their six tasks, and (2) to help them accomplish the first two or three of their six tasks, and (3) to teach them ways to insulate themselves from external sources of stress, such as post-separation parental conflict. For some children, external supports such as children's groups may also meet a fourth need of providing them with a social or emotional support network.

The research shows that, just as most children recover from the acute distress of parental separation, most parents also recover and resume whatever caring and protective parenting they had provided before separation (and these recoveries are related) (Lamb et al. 1997). For most children, therefore, external supports may be needed most at the time of initial separation. For children in difficult post-separation circumstances, or children experiencing repeated separation and divorce, needs may continue well beyond this point.

2.6 WHAT CHILDREN SAY THEY NEED

Just as little research exists on children's own perspectives on parental divorce and separation, little also exists on what children think they need, especially during the time of initial separation. Children consistently say that loss of regular contact with their non-residential parent is the worst thing about their parents' divorce (citations in Kelly 1993). Most children say they want contact (or more contact) with their non-residential parent (Lamb et al. 1997).

During the period of initial separation, children seem to want to talk about the separation with other children or sympathetic adults other than their parents. Three quarters of the children surveyed in the Scottish study of child-inclusive mediation at the Lothian Family Conciliation welcomed the idea of a children's group when asked if they wanted one (Garwood 1990).

Moreover, children interviewed in the recent evaluation of the Scottish *Parent Information Programme* reported wanting to talk about the separation with one or two "special people" other than their parents. Researchers evaluating a home-based course for families experiencing divorce also found that some children wanted to talk about the issues, but not with their parents (Hughes 2001). Researchers interviewing young Connecticut children on their understanding of their parents' separation (Pruett 1999) also concluded that the children hungered for trustworthy information regarding divorce, its procedures, and its characters. They were not getting this information from their parents.

Nonetheless, many children in the Scottish program voiced serious reservations about talking to others about their parents' separation. Reasons such as "not being able to trust people" and "feeling vulnerable" were given for not talking about their feelings. However, they appeared to realize that talking about how they felt was extremely important in dealing with parental separation (Mayes et al. 2001). Evaluation of the Centres jeunesse de Montréal's *Confidences* program found that less than five percent of the children in the program were unhappy to be there (Vallant 1999). Their most frequent reasons for enjoying it were that it gave them a chance

to talk about the separation (12 percent) and meet other children in the same situation (11 percent). However, another 13 percent said they felt talking about the separation was boring.

As indicated above, one of the most frequent complaints of older children looking back on their experience of parental separation and divorce is that they were kept in the dark by parents and authorities (Lyon et al. 1998; citations to their earlier work, Wallerstein and Lewis 1998).

Adolescents and young adults participating in a series of seminars in Liverpool, England, about including children's voices in custody and access proceedings were emphatic that children must be kept informed about the legal decisions being made on their behalf, the legal processes they are indirectly embroiled in, and the larger implications of their parents' divorce for their lives.

3. PROGRAMS FOR CHILDREN EXPERIENCING SEPARATION AND DIVORCE

There are a variety of existing programs for children experiencing parental separation and divorce, most of them intended to meet the needs identified by the research discussed in section 1. But while there are programs for children in most Canadian provinces (see Appendix A for a sample) they do not appear to be widely available and, according to providers, do not currently meet the demand.

This section describes the kinds of supports provided by children's programs, the kinds of programs available, and the research on their effectiveness. Most of the North American literature describes programs in the U.S. Most evaluations are also of American programs, so these figure prominently in the discussion. Appendix C provides a sample of prominent American programs, most of which have been evaluated. Appendix A provides a sample of Canadian court and community programs, with evaluations if available.

3.1 PROGRAM GOALS AND CONTENT

Programs for children experiencing family breakdown generally offer one or more of the following supports.

- Education and information about the legal terms and processes involved in separation and divorce, and the practical and legal implications of divorce for children's lives. This information may be presented didactically to older children, but could be "shown" to children by activities such as a tour of a courtroom and playing at being judges and lawyers.
- Education and information to show how children—like themselves—are affected by divorce, how they usually respond (e.g. wishing for reconciliation), and what they can expect from their parents and themselves. Since younger children process information mostly through their feelings, this information is conveyed to them by role-playing and games as well as discussion.
- Emotional support to soothe children and help them identify, explore, normalize and accept the difficult feelings they are experiencing. Children are provided a safe place to express feelings and to share their experience with other children going through the same problems, usually also with a sympathetic adult. With younger children, these programs also take the form of activities.
- Therapeutic emotional support to help children work through feelings about the divorce, including fantasies of reconciliation, self-blame, depression, blaming parents, anger, anxiety, withdrawal, acting out and feelings of competence and self-esteem (see Pedro-Carroll and Cowen 1985; Pedro-Carroll et al. 1986; Appendix C). Programs providing therapeutic support to younger children include mainly activities, and are led by trained therapists or counsellors. The more distressed the children, or difficult their parents' separation, the more intensive must be the support.

- Therapeutic support to help children develop skills to cope with their feelings and manage their responses to divorce and post-separation parenting, including, for example, controlling their anger, complying with rules, getting along with other children, solving personal problems, and dealing with conflicting loyalties. Programs providing such therapeutic support usually include activities for younger children, and are led by trained therapists or counsellors. The more distressed the children, or difficult their parents' separation, the more intensive must be the support.
- Helping children develop practical coping skills to insulate themselves from parental conflict and manipulation, especially skills to avoid being caught in the middle of the conflict.

3.2 PROGRAM STRUCTURE AND DELIVERY

Children's programs may be for groups or individuals. Programs for individuals are typically family and individual counselling programs providing intensive therapeutic support to children in crisis or with severe problems. Canadian family service agencies providing group programs for children experiencing parental separation and divorce usually also offer individual programs to these children and their parents (e.g. the *Families in Transition* programs provided by the Family Services Association of Metropolitan Toronto). In the court system, an integrated court services pilot program currently operating in Corner Brook, Newfoundland and Labrador, combines individual short-term counselling for children, or children and parents, with mediation and other services for families involved in custody and access disputes, including access denial (Reynolds, pers. comm., see Appendix D).

Most group programs appear to offer education, information, emotional support, and coping skills in some combination, although some group programs also provide intensive therapy. Group programs typically serve four to ten children, usually in groups based on age, through a course of weekly meetings. They cost less than individual supports, but researchers and providers also endorse their therapeutic value. Research shows that discussing the divorce with other children of divorce helps normalize the experience for children and gives them a potentially supportive network (Kalter et al. 1988, Pedro-Carroll and Cowen 1987, cited in Grych and Fincham 1992; Vallant 1999). Also, many children are more comfortable discussing difficult, sensitive issues in groups rather than with unfamiliar adults alone (Pedro-Carroll and Cowen 1987, cited in Grych and Fincham 1992). Even for children experiencing more severe difficulties, group sessions with families and children may enhance individual counselling by helping therapists to see the whole picture of a family and children that an individual therapy setting prevents (Gertner, pers. comm., see Appendix D).

Several Internet sites also offer facts and questions and answers for children. For example, *iConnect* is an interactive Web site for youth 12 to 15 years old, run by University of Illinois academics (<http://www.aces.uiuc.edu/~iconnect>). *Banana Splits* (New York, N.Y.) provides emotional support for 5 to 11 year olds experiencing parental separation and divorce, through group art therapy (<http://www.divorcesource.com/NY/DS/rosenberg.html>).

3.2.1 Community and Court Group Programs

Most of the Canadian children's programs identified in this research are community programs. Many are offered by social service agencies with counselling capacity, or by mental health institutions. Some are provided by lay volunteers: for example, the *Rainbows* program in Canada and the United States which operates in schools, churches, social agencies and other community venues.

Most programs in the United States are also community-based, and most are provided in schools (Grych and Fincham 1992). School-based programs in the U.S. may serve children participating in court-mandated programs for parents and children in separation and divorce proceedings, as well as other families. Most American court-connected programs are also delivered by community agencies (Geasler and Blaisure 1999). American school-based programs are often run by school counsellors: for example, the *Rollercoasters* program (see Appendix C). Basing programs for children in schools is thought to have expanded the number of children who can participate, since school programs are usually free. A school is also familiar ground, and can provide a child with a natural support network (Cowen et al. 1989, cited in Grych and Fincham 1992). One of the most rigorously evaluated American programs for children, the *Children of Divorce Intervention Program*, operates in primary and middle schools, including 50 in the Rochester, N.Y., area (see Appendix C).

A few Canadian provincial courts provide programs for children. In Manitoba, the court-based *Caught in the Middle* helps children, whose parents are before the courts over separation and divorce issues, to work through their feelings and concerns about the separation, and helps them avoid being caught in their parents' conflict (see Appendix A for details). St. John's Family Court in Newfoundland and Labrador provides a counsellor-led group program aimed at helping children normalize their feelings and develop coping strategies. The similar *Confidences* program offered by the Centres jeunesse de Montréal is intended for children with parents participating in court-ordered mediation. A provincially funded Vancouver program, linked to the Burnaby-New Westminster Family Justice Centre, provides a counsellor-led group aimed at helping children express and understand their feelings about parental divorce or separation.

3.2.2 Linked and Stand-Alone Group Children's Programs

Children's programs may be stand-alone, but are often linked with parallel programs for parents. Peer support groups providing emotional support are usually stand-alone (for example, *Rainbows* in North America, or *Relateen* in the United Kingdom). However, many court-connected American programs for children are tied to court-mandated parent education programs for separating and divorcing parents. None of the Canadian provincial jurisdictions that currently offer parent education programs provides a children's component, though British Columbia and Alberta are considering it. Community agencies in the U.S. and Canada also offer children's programs linked with parent education and support programs.

Parents' and children's programs can be linked in various ways. One common approach is for children and parents to attend parallel sessions with complementary curricula (for example, *Focus on Children in Separation* or FOCIS in Jackson Country, Missouri). Another is for children and parents to attend parallel sessions most of the time, with parents' and children's

groups meeting periodically, or at the end (for example, the court-mandated, community-based U.S. program *Rollercoasters*).

Individual children and their parents may also meet periodically, or at the end, with each other and the program counsellor. The aim of the meetings is usually to consolidate and reinforce what they have learned, and perhaps set follow-up goals for parents, based on what the child has expressed (for example, Toronto's Jewish Child and Family Services' in *Picking Up the Pieces* program). Even when no parallel parent program is offered, parents can be linked to the children's program through family sessions at various points during the program course (e.g. Healthcare Corporation's *It's Still O.K.* in St. John's, Newfoundland and Labrador).

Therapeutically intensive programs for children are also often linked to intensive therapy programs for parents. In the group mediation program in Alameda County, California, for example, a children's program providing therapeutic emotional support is linked with intensive impasse mediation for high-conflict parents in chronic litigation. These children's programs are thus also linked directly to court proceedings for parents in custody and access disputes.

Some stand-alone Canadian programs for children also link directly to custody and access court proceedings. Mediators participate whenever possible in the final family session of the Centres jeunesse de Montréal's *Confidences* program. Quebec is also considering a children's component as part of a revamped parent information session currently under discussion (Tanguay, pers. comm., see Appendix D). Agency staff in the Vancouver peer support group program liaise regularly with the Burnaby-New Westminster Family Justice Centre, which refers most of the families using the program. Parents of children participating in Toronto's *Families in Transition*'s core program, who meet with the children and their case manager at the end of the program to set goals and identify new needs, often proceed to mediation to develop or revise parenting plans, incorporating the results of the children's program (Freeman, pers. comm., see Appendix D).

3.2.3 Restricted and Open-Entry Programs

Community programs providing education, information and support, like *Rainbows* or British Columbia's *Circle of Friends* (see Appendix A), are typically open to all children who are experiencing, or have experienced, family breakdown (see Appendices A and C for details). Therapy-based community programs may either be open or restricted to high-conflict or litigating families. The Family Services Association of Metropolitan Toronto's *Families in Transition* program for children, for example, accepts all children who the counsellors feel will benefit from a group setting, including high-conflict families that are still open to insight and change (Freeman, pers. comm., see Appendix D).

Some programs exclude children in violent families, referring them to individual therapy, because these children will not be able to communicate with their parents about their feelings. The Family Centre of Winnipeg's *Giving Children Hope* is restricted to high-conflict parents who are also entrenched in court disputes.

Most provincial court-provided programs are targeted, or explicitly restricted, to children with parents in custody and access proceedings (for example, Manitoba's *Caught in the Middle*

program, Vancouver's ARK Child Services Society's peer support group, and the Centres jeunesse de Montréal's *Confidences* program).

Since children's programs in the U.S. are often linked to mandatory parent education programs, many American programs are restricted to children whose parents are currently before the courts with separation or divorce issues. In California, children's programs are often attached to impasse mediation or other intensive mediation programs for litigating parents.

3.2.4 Program Duration

Most group programs are short-term, with education and information programs sometimes spanning only one or two sessions, and emotional support programs sometimes lasting only three or four sessions. Many providers feel that short-term emotional support interventions around the time of separation or divorce are enough to help most children understand what is happening, accept reality, and acknowledge and manage their own feelings about it (Nichols, pers. comm., see Appendix D). Most parents whose children complete Toronto's Jewish Child and Family Service's *One Family, Two Homes*, for example, do not proceed to the more intensive *Picking Up the Pieces* because they feel they and their children have got what they needed (Gertner, pers. comm., see Appendix D). However, the Marriage Council of Philadelphia provides up to four month-long sets of sessions for children, and, by allowing them to attend more than one group series, can follow them for up to a year (see Appendix C for details). Maryland's *Children of Separation and Divorce Center* involves children and parents long-term by training them to participate in parenting seminars and to serve as peer counsellors (Davis et al. 1997).

3.3 PROGRAM AVAILABILITY

American court-connected programs for children experiencing parental separation and divorce increased rapidly during the 1990s. A national survey (Geasler and Blaisure 1999) found the number of U.S. counties and cities offering such programs jumped from 10 percent in 1994 to 21 percent in 1998. The courts responding to the survey identified programs for children as the single most important innovation they would like to make to their existing divorce education program. The growth of children's programs corresponds to a tripling of court-connected parenting education programs in the United States between 1994 and 1998 (Geasler and Blaisure 1999).

Nearly all Canadian provinces now also offer parent education programs through the courts, or purchase of this service from community providers, although many of these programs are very recent (Bacon and McKenzie 2001). Broad-reaching, publicly-sponsored parent education programs have grown the most since 1997, when a national survey located about 140 such programs in the country (Bacon and McKenzie 2001). As already indicated though, no court-sponsored program offers a complementary children's program.

Given their links to parent education programs, many of the new American programs for children provide education and information, although many also offer emotional support (for example, Jackson County, Missouri's *Focus on Children in Separation*). In 1998, most of the American court-connected children's programs were offered to elementary school children (99), followed by children in middle school (85), high school (62) and pre-school (21). Community

providers delivered most of the programs (up from 42 percent in 1994), and about two thirds were mandatory for children of separating or divorcing parents (Geasler and Blaisure 1999).

Stand-alone community programs providing mainly education, information or peer support seem to be expanding in Canada and the United States. The volunteer-run, peer-support program *Rainbows*, for example, has licences to operate in all provinces except Saskatchewan (see Appendices A and C). Still, availability seems spotty; *Rainbows* is currently available in most schools in Durham, Ontario, just east of Toronto, for example, but has only two sites in Prince Edward Island. Yukon is also considering the school system as a medium for providing education programs for children (McLeod, pers. comm., see Appendix D).

Counsellor-run emotional support and more intensive therapeutic programs are also available in major cities in many Canadian provinces, usually linked to other family services and provided by community agencies, hospitals or mental health institutions.¹ It is not known whether they are expanding. Providers report services are limited and under-resourced (pers. comm., community service providers across Canada). Similarly, individual-based therapy and counselling is available in all jurisdictions, but often only in major centres, and to a limited degree (see Appendix A).

Court-connected therapeutic programs appear to have expanded in British Columbia recently, but an intensive Ontario program for children with high-conflict parents in litigation—*For Kids' Sake*—recently closed. The United Kingdom and Australia also have some court-connected and community-based children's programs, but their extent is unknown. Children's programs are often offered as part of a package of mediation and conciliation services in England, Wales and Scotland. Programs linked with mediation and conciliation services are more likely to include some therapeutic emotional support to draw out children's feelings, improve communication between children and parents, and help children begin to deal with their feelings and experiences. Australia's Family Court also offers children's programs in some locations as part of its widely available mediation services (Strategic Partners 1999).

Overall, most court officials and community service providers indicate a need for more children's programs of all kinds.

3.4 TYPES OF PROGRAMS AND EVALUATIONS OF EFFECTIVENESS

It is difficult to categorize existing programs, given their enormous diversity. They are discussed here in five broad groupings, based on their goals, policy rationale, content, delivery and degree of therapeutic or clinical services. Few rigorous evaluations exist even for the major programs, although exit surveys of education and emotional support programs tend to show high client satisfaction.

3.4.1 Education and Information Programs

Among the fastest growing kinds of children's programs are those linked with, or corollary to, parent education programs. These programs vary widely, typically including information and

¹ This report focussed on community-based programs provided by family service agencies. The mental health sector, however, also appears to be a major program provider, especially of programs providing therapy.

education as well as an emotional support component. These two are difficult to distinguish in practice for very young children, because very young children respond primarily through their feelings. However, many of the children's programs linked with parent education, especially the court-mandated programs, emphasize education and information about the legal and emotional implications of divorce for children (for example, the *Kids First* programs in Hawaii, described in Appendix C). Most also seem to include some training in practical techniques for dealing with parents' inappropriate behaviour or their own acting out). However, courses may be short, perhaps one or two sessions, and may include as many as 35 to 40 children at a time, as in the *Kids First* programs (Anaya, pers. comm., see Appendix D). Education about the legal dimensions of divorce may be quite concrete. The first activity in a *Kids First* program is a tour of a courtroom, where children are encouraged to sit in the judge's seat and pound the gavel (Anaya, pers. comm., see Appendix D) (Di Bias 1996).

Where children's programs linked with parent education programs do include emotional support, their content will likely complement the parent program's goals of making parents' more aware of their children's needs and feelings, and focussing parents' actions on the child's best interests, rather than their own. Part of the purpose in helping children to feel and express their feelings about the separation is to increase parent-child communication, especially about the divorce, and so increase parents' awareness and attentiveness. The practical coping strategies offered in these courses are intended to help protect children when the parents fail to learn from their own program.

For example, the Toronto Jewish Child and Family Service's *One Family, Two Homes* is linked with concurrent parent-education workshops. A major goal of this program is to improve parent-child communication by helping the children express themselves, and helping the parents listen and attend to what their children express. The program was started two years ago because of long waiting lists for the more therapeutic *Picking Up the Pieces* program. Both programs aim to provide safe places for children to express feelings and explore coping strategies; the key distinction between them is that in *One Family, Two Homes* the issues are discussed generally, whereas in *Picking Up the Pieces* counsellors work with each child individually, focussing on what *they* are feeling and doing (Gertner, pers. comm., see Appendix D). (The more intensive program also excludes pre-schoolers.)

As indicated above, education-oriented programs can be stand-alone (for example, the St. John's, Newfoundland and Labrador, court-based program is stand-alone and mixes education and emotional support). Some families who graduate from the short *One Family, Two Homes* program proceed to the more intensive program, but others say the first program gave them what they needed (Gertner, pers. comm., see Appendix D).

3.4.1.1 Evaluations

Evaluations of education-oriented children's programs are sketchy and few. No evaluations were found that measured knowledge, attitudinal or concrete behavioural outcomes for children participating in education-oriented programs. In their absence, evaluations of parent education programs may offer some insight. Studies show non-didactic parent education programs—didactic programs have no impact (Arbuthnot et al. 1997)—may be effective in giving parents new knowledge that they retain, and in changing their attitudes (Arbuthnot and Gordon 1996; McKenzie and Guberman 1997, cited in Kirby 1998). Parents reported changes in their

behaviours in several studies (e.g. Gray et al. 1997). However, one study also measured their actual behaviours and found most of the problem behaviours had not changed (Arbuthnot and Gordon 1996).

An evaluation of the mandatory *Families in Transition* program in Louisville, Kentucky (see Appendix C) measured short-term outcomes for graduates of their children's and parents' programs, using the Divorce Adjustment Inventory, and found that most graduates were "adjusting satisfactorily" to the divorce (Brown et al. 1994). The program combines education and emotional support. The evaluators also reported that fewer than 10 percent of families completing the mandatory program re-litigated child-related issues afterwards. However, without a control group for comparison, the program's effect remains unclear, since most families adjust satisfactorily to divorce over time anyway. Relatively few divorcing and separating parents re-litigate in any case, for example, and the families attending the courses are likely to be the most cooperative and concerned about their children's well-being.

One problem for American children's programs that are tied to mandatory parenting education programs is low attendance (see, for example, Jackson County, Missouri's *Focus on Children in Separation*, in Appendix C).

3.4.2 Programs Providing Therapeutic Emotional Support

Another common type of program uses therapeutic techniques to help children learn the coping skills required to work through emotional responses such as anxiety, blaming, anger, acting out and depression—responses to divorce that not only cause most pain, but could arrest a child's development. Besides providing information and education, these programs give children a safe place to express and share their feelings with others and with supportive adults. They are best seen as part of a continuum with the education-based programs described above; indeed, individual programs in the two categories may be indistinguishable on paper.

These programs may be offered by family service agencies, mental health institutions, counselling centres or school counsellors, and may be located in schools or at these agencies. Some may be linked with parent education programs, or parent programs that also use therapeutic techniques. Many are stand-alone.

3.4.2.1 Programs in the United States

In the U.S., the *Rollercoasters* program is run largely by school counsellors, using a curriculum loosely based on Wallerstein's six "tasks" for children following separation and divorce discussed in section 1 (Fischer 1997).

The *Children of Divorce Intervention Program* (CODIP) is also a school stand-alone program that combines counselling techniques with emotional support, information and education, and teaches practical coping skills (Pedro-Carroll and Cowen 1985; Pedro-Carroll et al. 1986). This program, conceived as a preventive mental health measure, is well known for its extensive evaluations and positive reported outcomes (see below). Its curricula are widely used in such school programs across the country. The program was initially for pre-schoolers, but different versions have now been adapted for older children up to grade eight.

CODIP was built on the earlier, promising *Divorce Adjustment Program* (DAP), designed for psychologically healthy 7 to 13 year-old children experiencing parental separation or divorce and for their parents (Stolberg and Garrison 1985, cited in Shaw and Ingoldsby 1999). DAP's 12 Children's Support Group sessions were divided evenly between the discussing of divorce-related topics, and teaching coping skills to resolve problems, control anger, promote communication and put children at ease. CODIP reduced the anger control component and added a more general emotional support component (Pedro-Carroll and Cowen 1985). DAP also included parents in community-based single parent support groups and groups involving children and parents.

Another U.S. program, *Kid's Turn*, covers the same ground as CODIP and *Rollercoasters*, but links its children's program with a parallel parents' program (both parents attending when possible, but in separate sessions). Parents and children join in a potluck supper at the end of the course.

3.4.2.2 Programs in Canada

Programs providing therapeutic emotional help and support to help children develop coping skills were encountered often in Canada during research for this report. Examples include the Family Services Association of Metropolitan Toronto's *Families in Transition* core program, *It's Still O.K.* in St. John's Newfoundland and Labrador, and the Manitoba government's *Caught in the Middle*. The first two programs are open to all children, but directors say that children entering these programs tend to be more distressed than the average (Sinclair, Freeman, pers. comm., see Appendix D), especially in Toronto.

Most of the programs encountered engaged parents individually in the program at some stage, reflecting providers' widespread opinion that parents need to be involved for the programs to have therapeutic effect, that is, to bring about the children's well-being and emotional and behavioural adjustment. Several programs had extensive intake processes of several hours (for example, the Family Services Association of Metropolitan Toronto's *Families in Transition* core program). When parents' and children's programs are linked, families may have case managers who follow up with parents, and leaders of both programs meet regularly to ensure that the right issues are raised in the right way in the groups.

Providers agree their programs are more effective when both parents are involved. However, where both parents are involved in a parental program of any kind, it is usual for them to attend separately. Providers also emphasize the need to mix genders in the parent groups.

3.4.2.3 Evaluations

The evaluations of these programs are among the best available for children's programs.

Children of Divorce Intervention Program

The Children of Divorce Intervention Program's (CODIP) two pilot program evaluations are among the few to show positive results (Pedro-Carroll and Cowen 1985; Pedro-Carroll et al. 1986). Pre- and post-test studies found that children reported lower anxiety (and less anxiety than children in a control group) and fewer negative self-attitudes and attitudes about the divorce. There was no change in the children's perception of their competence and self-esteem.

However, parents, teachers and program leaders reported that the children were less shy or anxious at school, had fewer school problems, were more competent (that is, showed less frustration, were more sociable, more compliant with rules and more appropriately assertive) and were less self-blaming, as well as less anxious overall (Pedro-Carroll and Cowen 1985).

A second pilot comparing children of separated or divorced families with children in intact families found that the children in the program again overwhelmingly showed less anxiety. Parents, teachers and facilitators again reported improvements on most fronts. With respect to many school and other external measures, the children in the program had caught up with those in the control group, whom they had been behind at the pre-test (Pedro-Carroll et al. 1986).

A recent follow-up of program participants two years later found that CODIP children were still less anxious than other children of divorce in a control group (Pedro-Carroll and Sutton 1999). Parents also reported increases in their children's coping skills and abilities to effectively handle divorce-related concerns. Children in the divorce control group had more behavioural problems and visited the school nurse more often.

Rollercoasters

Evaluation of the *Rollercoasters* program found that 85 percent of the parents reported improvements on at least one of five measures: children's general level of communication, their level of communication about the divorce, their willingness to express feelings, their acting-out behaviour, and their self-esteem (Fischer 1997). Children who were reported to be more communicative before the program were more likely to be reported as having become even more communicative afterwards. Parents were more likely to report improvements with regard to acting out, expression of feelings and self-esteem for children who were below average on these measures before the program. However, teachers reported no changes in children's negative behaviours (using the Behaviour Problems Index). The evaluation did not include children's self-reports.

Divorce Adjustment Program

The Divorce Adjustment Program (DAP) evaluation also found significant improvements in self-concept and adaptive social skills among the children in its program, during post-treatment and five-month follow-ups (Stolberg and Garrison 1985, cited in Shaw and Ingoldsby 1999). However, DAP found that results differed for its stand-alone children's program, the combined parent-child program, and its parents-alone program. Only children in the stand-alone program improved, and only parents who participated in the parents-only program improved. Neither parents nor children improved in the combined program (Stolberg and Garrison 1985, cited in Pedro-Carroll et al. 1986). A study conducted in the 1980s by the founder of Toronto's *Families in Transition* program also tested various combinations of programs and found the most effect for programs involving parent and child, with programs for parents alone more effective than programs for children alone (Freeman, pers. comm., Appendix D).

A later DAP study explored effects of its program on more troubled children (one half had clinically significant problems) and added workbook assignments to help the children transfer the skills they were learning in the program to their actual lives (Stolberg and Mahler 1994, cited in Shaw and Ingoldsby 1999). This study showed similar results for the children. But the

workbook component made no difference to the gains. Moreover, the only positive outcome still in effect a year later was the improvement in children's behaviour in the home (Stolberg and Mahler 1994, cited in Shaw and Ingoldsby 1999).

Despite mildly promising results of some of the control group studies, other control group studies of similar types of programs have found no positive impacts (Lee et al. 1994; see also citations in Pedro-Carroll and Cowen 1985). Similarly disappointing effects were found for seven studies of parent interventions that used control groups (Lee et al. 1994). Studies using no control groups have shown similar mixed results (e.g. see citations in Crosbie-Burnett and Newcomer 1990).

Confidences

Although it did not measure child outcomes, a recent evaluation of the Centres jeunesse de Montréal's *Confidences* program showed that 80 percent of the 112 child participants felt the program had helped them. Thirty-six percent said talking about their parents' separation had helped them, and 15 percent reported that talking had helped them understand the separation (Vallant 1999). Parents said that their children's sense of security had been increased by seeing other children in the same circumstances, and nearly as many thought the program helped their children express themselves more easily about the separation. A quarter of the parents reported that their child was calmer, and one fifth felt their children expressed themselves more readily about the separation (see Appendix A).

3.4.3 Lay Programs Providing Peer Emotional Support

Another group of programs also provides children with a safe space in which to explore their feelings at the time of parental divorce—especially their feelings of loss, fear and even hopelessness—with other children under the guidance of trained volunteers. The programs range from simple “rap sessions” to more structured activities. They may include teaching coping skills to help children stay out of the middle, and education about the legal terms and processes concerning separation and divorce, and their effects on children. In Brighton, England, for example, *Relateen* program counsellors provide loosely structured discussion sessions for local 11 to 18 year olds whose parents have separated and divorced (<http://www.brightonrelate.org.uk>).

In Canada and the United States, the *Rainbows* program offers 12 weekly sessions for groups of similarly aged children plus two multi-group days. It is open to all children, including those whose parents have been separated or divorced for many years, and serves children suffering loss by death in the family as well. It is run by teachers, sympathetic adults and sometimes guidance counsellors who undergo brief training. In Canada, *Rainbows* is licensed to operate at 1070 sites, that is, that number of organizations have completed the training and been approved to provide the program. About 9,000 children's workbook/journals were sent to various program localities in 2000.

In British Columbia, Vancouver's ARK Child Services Society has also developed a curriculum for peer support groups, *Connections*, to be run by professionals trained in listening skills. The Boys and Girls Clubs in the province also run support groups for school-age children and teenagers suffering loss, including family break-up.

An evaluation of 97 fourth, fifth and sixth graders attending *Rainbows* programs at 28 schools near Chicago found positive responses but few gains for these children, compared to a control group (Kramer and Laumann 2000). In high-conflict families, pre- and post-tests found some improvement in the perceptions of children of one of the coping skills: positive reappraisal, i.e. the ability to look on the bright side. There was no change in children's perceptions of their adjustment, the quality of their relationship with the parent they spend most time with, and other coping skills such as getting support from peers, avoiding strategies that reflect hopeless or blaming attitudes, and seeking support from other adults. Children's perceptions of their well-being did not change, although it declined for children of high-conflict families in the control group. This suggests that the program might provide some stabilizing support to its children.

Counsellors express some concern that lay facilitators in the lay programs may not be able to read the signals indicating that children in high-conflict families, or otherwise in distress, are reacting adversely to what is happening in the group. One strength of these programs seems to be their ease in normalizing the divorce and separation process.

3.4.4 Focussed Skills Teaching Programs: *Children in the Middle*

Separating and divorcing parents frequently put their children in the middle of their conflicts by demanding that they choose sides and work with one parent against the other. Teaching children strategies to deal with being caught in the middle is a popular component of children's programs. Many community agencies make the video-based *Children in the Middle* program materials the primary focus of their program. Since the program has both parents' and children's components, it is also often used as the basis for parenting education programs that include a children's program component. The children's program has been distributed to more than 500 service providers around North America.

Therapy and mediation programs targeted to high-conflict litigious parents are also likely to deal with children being caught in the middle, since this is more typical in situations involving high-conflict parents. But the problem in high-conflict families usually reaches a different order of magnitude than in other families. One common feature of high-conflict parents is that they have extreme difficulty hearing and listening to their children, or to each other. The education-oriented *Children in the Middle* is not designed for these families.

Manitoba's court-based *Caught in the Middle* is targeted to children whose parents are in custody and access legal disputes (Bewski, pers. comm., Appendix D). Although it deals with being caught in the middle, it is designed to provide more general therapeutic emotional support and to teach coping skills for children akin to those provided in the programs discussed above.

There has been considerable evaluation of specific *Children in the Middle* programs, although mostly of the parent-education version of the program (see Arbuthnot et al. 1997; and Arbuthnot and Gordon 1996, for some of the most rigorous ones). However, one small study of 33 fourth, fifth and sixth graders found significant improvements in children's stress levels (Kearnes et al. 1991). In a four-week follow-up, children reported the frequency and stress of situations in which they felt caught in the middle. The children reported experiencing significantly less stress than those in a control group who watched a non-skills-oriented divorce video *When Mom and Dad Break Up*. Improvements were clinically significant for 50 percent of the children. The program appeared to have no impact on frequency.

3.4.5 Therapy-Based or Clinical Interventions

These kinds of programs are distinguished by their therapeutic intensity, whether in the children's program itself or in a parents' program. Children's groups will often include two therapists (or one with an assistant), and focus on therapeutic emotional support and therapeutic training in coping skills to manage feelings, such as despair and depression, and reduce anger and acting out. When the children's program is linked with a parental program, the intensity would be equally located in the parents' program, where small groups of couples are attended by two therapists working to identify and resolve entrenched destructive behaviours among the parents.

These intensive programs are usually directed at children in obvious distress, or children in high-conflict divorcing and separating families. The programs are often linked with individual and family therapy services (parents or children may be receiving both concurrently, or may move between the program and individual therapy) and may be provided by family service agencies, counselling and therapy centres, and mental health institutions. Clinicians who work with these families emphasize how typically intransigent and hostile the parents are, and how difficult it is to get them to attend to or recognize their children's suffering (Hood, pers. comm., Appendix D).

Programs that link children's and parents' programs may also be court-connected. Families are often referred to these programs because they are locked in court battles, frequently involving violence and abuse. The ultimate goal of the parents' program may be to resolve those disputes using a combination of intensive group therapy and mediation. In these cases, the children's program provides a venue for children to receive therapeutic emotional help and to learn coping skills. One primary function, though, is to give the parents feedback about their children's needs and concerns, and to reinforce and intensify the therapeutic push to change the parents' understanding and behaviour (Johnston and Campbell 1988, cited in Brown 1995). These programs provide what many experts consider to be the least threatening way for children to voice their concerns about their parents' conflict and separation to their parents (Brown 1995).

California's center for *Families in Transition* has been a leader in developing court-connected versions of these therapy-intensive interventions in the state (Johnston and Campbell 1988, cited in Brown 1995). Family court services in Alameda County, for example, runs linked parent and child programs for families before its court. To enter the program, children must be clearly suffering and the parents must have failed mediation at least twice. The children's programs provide peer support to the children. After carefully preparing the children and parents, the two groups are eventually brought together for a session about halfway through the eight-session program (Schepard 1998). In these kinds of programs, children convey their messages to their parents as a group through such devices as stories, pre-recorded videos, role-playing or videos (Brown 1995).

These safe techniques for providing feedback to parents are also used in less clinically intensive programs that include concurrent parent and children's programs, and in which parents and children join in a group meeting at some point. In many other programs, children prepare these messages together as part of their activities (a group letter is popular) and deliver them individually to their parents.

The Family Centre of Winnipeg's *Giving Children Hope* is a targeted program for parents and children in high-conflict families (usually also in litigation) that combines therapy and mediation for the adults. Its children's sessions, which start a few weeks in advance of the parent sessions, involve several therapists. Parents in litigation must suspend it during the course. An evaluation of the program is in progress.

No evaluations of other intensive therapy programs for children were found. Evaluations of the hybrid mediation-therapy programs measured parental outcomes only. A two to three year follow-up of two studies of high-conflict families found that two thirds were able to keep or renegotiate their own agreements regarding custody and access, and hence stay out of court (see citations in Johnston 1994).

3.4.6 Evaluation Overview

Overall, there has been little evaluation of children's programs, and existing evaluations tend to be compromised by small sample sizes and by the use of limited research designs and methods, often due to the external parameters of the evaluations (Fischer 1997; Grych and Fincham 1992). There seem to be no long-term follow-ups.

Many of the program evaluations encountered in the literature stop at recording participants' satisfaction with courses and their willingness to recommend the program to others. On this measure, children's programs tend to score highly. So do parent education programs. However, there is only some evidence to show that parental education programs can actually change parents' attitudes, and little or no evidence that they change parental behaviours (see above). It is even more difficult to assess the impact of children's programs on their emotional states, attitudes and behaviours when, in many studies, assessments are based on parents', teachers' or group facilitators' reports of how the children are feeling or adjusting. Children's self-reports, on the other hand, may be no more accurate than parents' self-reports about the extent to which they are aware of their children's needs and feelings, are communicating well with their children, or are putting their children in the middle of their parental conflicts.

In an overview of existing studies in the early 1990s, researchers raised several other concerns (Grych and Fincham 1992). First, they pointed out that most evaluations do not assess whether the goals of the group have been achieved (e.g. whether children have a better understanding of divorce) before assessing whether the program improved children's functioning. Only one study referred to above (Roseby and Deutsch 1985, cited in Grych and Fincham 1992) specifically tested whether children had understood the significance of divorce, for example, before testing for adjustment outcomes.

Secondly, the teachers and parents who rated the children's adjustment were usually fully aware that the children had been in the program, and so may have been biased (the halo effect). In the *Children of Divorce Intervention Program* evaluations, this possible effect for the adults' assessments was offset by the children's own mixed assessment of changes in their adjustment.

Thirdly and finally, researchers argue that evaluation studies should distinguish between children living in single-parent homes and those in stepfamilies, since experiences and problems of these two groups of children may be very different (Grych and Fincham 1992). Similarly, some of the

studies do not distinguish children whose parents have recently separated from those who may have been divorced for several years.

Another problem raised by researchers is the lack of good instruments for measuring children's adjustment outcomes (e.g. Freeman 1995; Pedro-Carroll and Cowen 1985). The psychometric properties of several of the measures commonly used have yet to be determined. Moreover, some researchers have expressed concern that behavioural measures, in particular, tend to focus on negative behavioural outcomes. There are few measures to assess gradations of positive behavioural outcomes (e.g. Amato 1994).

The dearth of evaluations on children's programs limits assessment of their value. It also means there is no research to guide policy makers in deciding, for example, whether it is more effective to resource programs for parents (perhaps parent education, possibly support groups) or programs for children, or only programs involving both, in order to alleviate children's distress and enhance their well-being.

Similarly, although courts in the U.S. clearly tend to tie children's programs to parent education programs, the impression is that Australian and British courts are expanding children's programs primarily as adjuncts to mediation or conciliation. There is no research yet to say which works best, for children directly, for their parents, or for custody and access decision making committed to securing children's best interests.

Another important issue is whether targeted, more intensive interventions—possibly to children exposed to many post-separation stressors and lacking supportive parents or social supports (Wolchik et al. 2000)—are more needed than broad-based interventions for children. After all, the research predicts children will rebound fairly quickly from the acute distress of separation and divorce, if their parents also rebound.

In spite of the lack of evaluation of programs for children experiencing parental divorce and separation (cited as the main reason for so few Canadian program evaluations), there appears to be strong support for these programs among community social service providers, other community sectors and parents. Providers believe strongly these programs work for children. Most appear to believe that parents should also be involved, but not necessarily through a linked or parallel program. In many programs, parents are very keen for their children to participate, and are eager to know counsellors' assessments at the end of the sessions (Filion, Gertner, Freeman, pers. comm., Appendix D).

Providers of lay-led emotional-support programs have expressed some concerns about counsellor-led programs, and counsellors leading programs expressed concerns about lay-led programs. These two types of programs share the goal of helping children understand the significance of divorce, that is, coming to terms with the fact that their parents will probably not reconcile, but that they will not be abandoned by both parents. However, a support group provides less structured support. The relative effectiveness of the different program approaches, and the groups of children for which the different approaches might be effective, is another gap in the research. Moreover, as indicated earlier, the one study that explored the impact of this understanding (Roseby and Deutsch 1987, cited in Grych and Fincham, 1992) found that understanding did not improve children's adjustment.

4. VOICE OF THE CHILD

Two reasons are advanced for including children's voices in custody and access proceedings. The first concerns their rights, and argues that children are entitled to have a say in decisions that affect their lives. The second concerns their interests and argues that including children's voices in custody and access proceedings serves their best interests, either through its effect on them directly, or its effect on the quality of decisions made.

4.1 THE RIGHT TO VOICE

The 1989 signing of the *United Nations Convention on the Rights of the Child* (e.g. Australian Law Reform Commission, 1997) has stimulated Canadian and other national governments to express more interest in, and concern for, giving children a voice in judicial and administrative proceedings and decisions that affect their lives. The Convention requires governments to assure children who are capable of forming their own views the right to express those views freely in matters that affect them, and to give their views due accord in institutional decision making (e.g. Brown 1996a). To this end, children are to have the opportunity to be heard in any judicial and administrative proceedings affecting them, either directly or through a representative or another appropriate body. Canada, Australia and the United Kingdom (though not the United States) have ratified the Convention.

Arguments asserting the primacy of inherent rights as the reason for giving children a voice in custody and access proceedings do not claim that children always know their best interests or that expressing their voice in legal proceedings never harms them. These arguments for giving children a voice, therefore, may in certain situations be at odds with the children's best interests. Most commentators believe that children's stated wishes *often* conflict with their best interests (e.g. Austin et al. 1991; Huddart and Ensminger 1995; Brown 1995 1996a).

A basic issue for policy makers is when, and in what way, children's rights are to be included in custody and access proceedings, and when this needs to be tempered by considerations of their best interests.

4.2 THE CHILDREN'S VOICE AND THEIR BEST INTERESTS

The second reason for including children's voices in custody and access proceedings is that doing so serves the children's best interests. Custody and access decisions are now governed in most English-speaking jurisdictions, Canada included, by the principle of the *best interests of the child*. Several jurisdictions explicitly include the child's own wishes as one consideration that judges must weigh in deciding individual custody and access disputes.

Traditional custody and access proceedings entitle parents to decide post-parenting arrangements on the child's behalf, and this entitlement is based partly on the assumption that parents are best able to decide their children's best interests, or, if they fail, that courts can fulfill this role. In 1994-95, 38 percent of Canada's separated and divorced couples had a court order governing their broken union (with another 10 percent in progress) (Child Support Team 2000). Only a tiny proportion of divorcing or separating couples have disputes decided by a final judicial

hearing; most settle before that. In cases not using the legal system, parents reach agreements on their own or with the help of lawyers and mediators.

Many commentators and researchers are skeptical that either parents or the courts always know what is best for the child.

4.2.1 The Parents' Capacity to Assess Children's Best Interests

As discussed in section 1, many parents' capacity to attend to their children's needs, or communicate with them, diminishes during the separation and divorce period. As a result, researchers and commentators are often skeptical that the parents' decisions made during this period are always based on their understanding of their children's best interests. The explosion in parenting education programs reflects this skepticism.

This problem is compounded by the judicial system's tendency to assume that children's best interests coincide naturally with those of their parents' (L'Heureux-Dubé 1998), and to accept uncritically that legal processes and post-parenting arrangements which best suit the parents will also best suit the children. The research contains many examples of post-parenting agreements that ignore young children's developmental and emotional needs, but optimally satisfy the parents' needs. This is as likely to occur with agreements amicably and easily reached, as with those reached amid high conflict. Examples include arrangements in which the child spends one year at a time with each parent, or in which infants spend months at a time with different parents (e.g. Wallerstein 1986-87; Beck and Bianck 1997).

Post-parenting agreements that work well when children are young often do not work well when children reach adolescence, after parents' and children's interests have diverged (e.g. Wallerstein 1986-87). Both mothers' and fathers' time with children declines as children grow older (Thompson 1986, cited in Nord and Zill 1996), at least partly because the children develop other interests (Wallerstein and Lewis 1998). Yet some parents continue to rigidly enforce the original custody and access arrangements (because they still work for the parents) at cost to the teenager's social and emotional progress. The longitudinal California study found children felt silenced and coerced by the rigid enforcement of the original arrangements. This became a major issue for these teenagers, especially the vacation arrangements (e.g. Wallerstein and Lewis 1998).

Researchers also found that none of the children who were forced to see their fathers (under a rigidly enforced court order or unmodified parental agreement) had good relationships with them as adults. To not include children's voices and especially, to not allow the preferences of older children to shape custody and access arrangements in an ongoing way, may undermine their well-being as adults in ways beyond those usually captured in outcomes research.

These problems appear frequently enough to conclude that even parents who cooperate in low-conflict post-separation parenting do not always serve their children's best interests and are not always aware of their children's interests. Even researchers who argue that most parents (and courts) genuinely believe they are acting in the children's best interests, also believe that, nonetheless, parents and the state tend to pursue claims that serve and protect adult interests (see citations in L'Heureux-Dubé 1998).

4.2.2 The Court's Capacity to assess Children's Best Interests

Some observers, including judges, are equally skeptical of a court's ability to ascertain children's best interests (L'Heureux-Dubé 1998; Brown 1996). Studies show that judges tend to base their decisions more on qualities of the parents as persons than on the quality of the parent-child relationship in making custody and access decisions (cited in Brown 1996; L'Heureux-Dubé 1998). One 1982 study of U.S. judges and commissioners (admittedly somewhat outdated) found that each parent's mental stability and sense of responsibility to the child figured most importantly in judges' decisions. Judges also used different criteria to assess mothers and fathers morally: fathers were more morally deficient when they did not provide for their families or abused their children, mothers when they committed adultery or prostitution (Settle and Lowery 1982, cited in Brown 1996a). A subsequent study of psychologists and social workers found that the same criteria predominated, except that this group assigned less importance to biological relationships and to keeping young children with the mothers (Lowery 1985, cited in Brown 1996a).

Another small study of Canadian custody evaluators found that their three main criteria were: child's attachment to the parent, the child's wishes, and the need for continuity of care (Parry et al. 1986, cited in Brown 1996a).

Considerable evidence shows that children, too, are often unhappy with judges' decisions (e.g. Lyon et al. 1998; Wallerstein and Kelly 1980, cited in L'Heureux-Dubé 1998). For example, the longitudinal California study found that the court decisions were rarely what the children wanted.

Commentators conclude that including children's voices in custody and access hearings can help the courts, as well as parents, make decisions that serve children's best interests (e.g. L'Heureux-Dubé 1998).

4.2.3 Children's Voices and Their Long-term Adjustment

Some research shows that including children's voices in the decisions that rule their lives, including legal decisions on custody and access, contributes directly to their well-being and adjustment, and by implication, to their best interests.

Child development research suggests that self-esteem, competence, self-efficacy and self-understanding contribute importantly to developing children's resilience. Researchers on resilience argue that to develop the healthy self-concept crucial to resilience—and to keep it—children need to feel they are in control of their lives, and are able to act on their own behalf, especially during major transition times. Resilience demands more than passive acceptance (Rutter 1989, cited in Family Law Council of Australia 1996). Australia's Family Law Council recently cited these kinds of benefits in calling for greater inclusion of children's voices in custody and access proceedings (Family Law Council of Australia 1996).

4.3 WHEN AND HOW TO INCLUDE CHILDREN'S VOICES

Since including children's voices may advance their best interests, the most important issue for policy makers is when and how to include children in custody and access proceedings in ways that do this. The literature suggests four possible ways. First, children's wishes and preferences

may decide the matter. Second, their wishes and preferences may directly inform decisions. Third, the needs and interests that children express inform, or are the basis for deciding, custody and access decisions. Fourth, children are kept informed, and have events and decisions, and their implications, clearly explained to them.

With older children, discussion focusses on the first two ways mentioned. Older children, especially teenagers, are likely to want to express their wishes, and often want these wishes respected. Discussion concerning older children revolves largely around the age at which, or the criteria by which, the children's wishes should be treated in the same way as adults' wishes, that is, as decisive. The pressing problem is to know when the court should override the children's own wishes, in cases when these wishes flagrantly conflict with their best interests. This is largely a matter of judicial policy and practice. Current common judicial practice is to grant considerable, if not controlling, weight to the custodial preference of children 14 and older, and there is apparently a trend to give greater weight to younger children's preferences (Brown 1996).

With younger children, discussion focusses most often on the last two ways mentioned above. There is considerable evidence that children do not want to make the big decisions about who they will live with, and how often they will see their non-residential parents (e.g. Huddart and Ensminger 1995; L'Heureux-Dubé 1998; Pruett 1999). They may be more interested in the smaller questions of whether, for example, they have to go to the football game every Saturday with Dad.

It appears to be more difficult to elicit younger children's wishes and preferences concerning larger issues. Young children's capacity to articulate their genuine and rational preferences is also dubious, as discussed in the next section. Few commentators appear to believe that children's wishes should always be decisive as a matter of principle, for older or younger children (e.g. Huddart and Ensminger 1995; L'Heureux-Dubé 1998; Brown 1996).

Clearly, though, children do want their parents to recognize and attend to their needs and interests in custody and access decisions. For policy makers, the key issues regarding younger children are how to enable them to participate in legal proceedings that both optimize chances of decisions that serve their best interests and minimize those that may harm them. Harmful results can range from parental retribution to making children feel they are the sole decision makers, responsible for making it all work out. Specific policy issues revolve around when, and if, children should directly participate in proceedings (and, if so, which ones). Another issue is when, and if, they should be heard indirectly through the voice of a disinterested third party, such as a mediator, custody evaluator or expert witness, or any third party acting as advocate for the child's best interests.

Given the limited range of young children's voices, a related policy issue to be resolved is what kinds of decisions and deliberations need to include their voices.

A study of the ways in which Canadian children's voices can be included in Canadian court hearings—e.g., through direct testimony, judicial interviews, participation in the proceedings as a party with legal standing, or through counsel charged with representing the child's best interests—was completed recently (Bessner 2002). Section 5 will examine how children's

voices may be included in proceedings leading up to the courtroom, or proceedings outside the courtroom (such as preparation of custody assessments) that are used in making court decisions.

4.4 CHILDREN’S CAPACITY FOR EXPRESSING THEIR NEEDS AND WISHES

Both the rights-based and interests-based arguments for including children’s voices assume that children can speak about their needs, or their wishes, authentically and rationally. If they cannot, then one may argue that they can have no right to have their wishes heard, and that what they would say may be little help in determining their best interests.

Rationality refers to the capacity to form rational preferences, or more precisely, to form preferences that meet the criteria set for autonomous rational persons, and which are imputed to adults. *Authenticity* refers to the capacity to express genuine preferences or needs in contexts where the child is caught in agonizing conflicts of loyalty and/or is trying to please and appease adult caretakers and authorities.

4.4.1 Rationality

Some studies show children can form reasonable preferences and wishes that reflect rational deliberation (e.g. analysis of future risks and benefits). One study of 9 to 14 year-old children in intact families found that, given two custody dilemmas and asked to state their preference and reasons for a particular outcome, their reasons and preferences closely paralleled factors included in existing U.S. legislation (Garrison 1991, cited in Brown 1996). Judges gave the children’s reasons moderate weight when asked to resolve the same cases. Research also shows that children often remember more than they say they do. The age of a child has been shown to affect the amount of recall but not its accuracy (see citations in Brown, 1996). However, children generally become confused under direct questioning, and have particular difficulty with questions involving “yes” and “no” answers (see citations in Brown, 1996). Other research suggests limits to children’s capacity to deliberate rationally (see e.g. Bowen 1998).

Research suggests there are limits to many children’s rational capacities, but it does not demonstrate that children’s preferences should be dismissed. Even if children’s wishes do not reflect the full rational deliberation we impute to adults’ wishes, there may be no reason not to give children’s wishes decisive or significant weight in cases when doing so does not conflict with their best interests or harm them. Concerns about children’s rationality surface mainly in relation to discussions about the weight that should be given to children’s wishes and preferences.

4.4.2 Authenticity

Most practitioners and service providers are concerned mainly with children’s capacity to express genuine preferences in custody and access proceedings (Brown 1996; Austin et al. 1991). The *best interests* principle is part of a larger effort to reduce adversarial proceedings. But there seems to be broad agreement that children are often manipulated or pressured by parents, are made to feel (or may feel) responsible for parents, and are typically torn by loyalties to parents to a degree that makes it extremely difficult for them to say what they want, even to themselves (e.g. Austin et al. 1991).

Concerns about authenticity apply as much to children's capacity to express their needs and interests as to their capacity to express preferences. However, there is considerable support for the view that, under the right conditions, children *are* able to articulate their needs and interests from a very young age (e.g. Wallerstein citations in L'Heureux-Dubé 1998; Brown 1996). These right conditions do not generally exist in the courtroom. They include being asked questions by skillful listeners who are knowledgeable about child development and the broader context of the family's circumstances (Brown 1996). For younger children, they include the same skills and knowledge, as well as the ability to interpret behaviours as much as words (Brown 1996).

Given the parental and other pressures on children in custody and access disputes, most practitioners and researchers are cautious about when to accept children's voices as authentic in custody and access proceedings (e.g. Austin et al. 1991; Brown 1996). Most do not think the problems of determining authenticity and rationality should prevent children's voices from being included in custody and access decision making. However, as the discussion in section 5 shows, many do think these problems circumscribe how children's voices should be included and how much weight they should be given.

5. VOICE OF THE CHILD IN CUSTODY AND ACCESS PROCEEDINGS

Just over 67,000 Canadian couples divorce each year and 50 percent of these couples have dependent children (Child Support Team 2000). In addition, thousands of common-law couples also separate annually and many of them also have dependent children. About half the total number of divorcing and separating Canadian couples have court orders specifying their post-separation custody and access (Marcil-Gratton and Le Bourdais 1999), while the rest may have formal agreements forged with the help of lawyers, or informal arrangements. Court programs and proceedings that help separating or divorcing families resolve custody and access disputes therefore affect the lives of many thousands of Canadian children each year.

5.1 LEGAL PROCEEDINGS FOR CUSTODY AND ACCESS DISPUTES

Only a fraction of the separating and divorcing couples who enter the Canadian court system to resolve their custody and access arrangements ever have their disputes ruled on by a judge. Most couples with disputes either reach a settlement by themselves, or with the help of mediators or counsellors. Many couples who reach settlements by themselves do so quickly. Most of those who fail to reach agreement during mediation, or who do not use mediation, reach a settlement before final hearing, often after custody assessments have been completed and their recommendations have been absorbed by the couples, sometimes with the help of further court program interventions.

Children's voices may be included at several stages during the litigation. Two of the most important times are during mediation or conciliation, and during the preparation of custody evaluations (known as home studies or family assessments in some jurisdictions) which help judges in their decision making. For difficult cases, other programs sometimes exist (e.g. the Ontario Office of the Children's Lawyer's programs discussed below) to help families reach an agreement before a final court hearing.

Children's voices may also be heard in the courtroom, either directly as parties to the hearing with counsel acting on their instructions, or through counsel or other legal representatives mandated to advocate for their best interests and to present information about their needs and interests that would otherwise be overlooked. (However, this section focusses mainly on the possibilities for including children's voices in programs and proceedings outside the actual courtroom.) In some jurisdictions, children's voices may also be heard through lay advocates, but, as already noted, this report does not explore this possibility.

Most federal and provincial legislation in Canada permits children to participate in custody and access proceedings, although it does not specifically provide for it. Quebec is an exception: its Civil Code requires the courts to give children an opportunity to be heard if their age and power of discernment permit it (L'Heureux-Dubé 1998; Bessner 2001).

Most other English-speaking jurisdictions similarly permit, but do not specifically provide for, including children in proceedings. One exception is Scotland, where *The Children Act 1995* requires that children have a say in custody and access decision making. Parents pursuing a

custody and access or parenting writ (filing and application) are required to “crave” (request) that notification be sent to each of their children asking them whether they want to tell the sheriff their views on the matter. The courts then approve or reject the crave. Parents not wanting their children involved must crave that no notification be sent (Samuel 1999).

Canadian provinces lacking specific legislative provisions may still include children in custody and access decision making through specific programs and proceedings, although parents often become gatekeepers to their participation. Appendix B outlines how Canadian provinces and territories currently include children’s voices in such proceedings.

5.2 CHILDREN’S VOICES IN MEDIATION AND COUNSELLING

Most English-speaking jurisdictions have introduced, or are introducing, counselling, mediation and/or arbitration programs to help parents resolve their custody and access disputes before they reach the final court hearing. Courts in many Canadian provinces now offer mediation or conciliation to separating or divorcing parents.

Mediation is more agreement-driven than (non-therapeutic) counselling, which typically mixes techniques to effect change in parents with agreement seeking (Nicholson 1994). However, the distinction can be subtle and the Family Court of Australia recently renamed its counselling and conciliation services mediation services.

The number of Canadian parents using counselling or mediation to settle custody and access issues is unknown. Australia’s federal family court reports that 95 percent of families with custody and access disputes settle before a final court hearing and 75 percent during conciliation or mediation provided at each court location (Australian Law Reform Commission 1997).

Parents may use mediation to settle custody and access arrangements at divorce or separation, to vary existing arrangements or to resolve other access disputes such as access denial or breach of access. Parents can use mediation for specific issues or to resolve all their post-separation parenting issues together (comprehensive mediation).

Provincial court officials uniformly report that mediators only occasionally include children in court-provided mediation. When children are included, they tend to be older (12 and over). How they are included appears to vary with the individual mediators. A recent study found that 87 of the 250 practitioners involved in significant amounts of private family mediation do not involve children in the mediation. Twenty-eight mediators said that exploring children’s feelings directly with them was one mediation strategy they used, and 30 reported using meetings involving children as a strategy (Kruk 1998). It is not known how often these strategies are used.

Quebec is considering extending funding for its free mediation services to include meetings between mediators and the children alone. Currently it funds only meetings between mediators and parents, or parents and children (Tanguay, pers. comm., see Appendix D).

5.2.1 How Other Jurisdictions Include Children

Practitioners in other jurisdictions tend not to include children in mediation either. In Scotland’s family conciliation services, for example, conciliators included children in 20 percent of their

186 mediation cases between 1986 and 1988, despite the stated policy to include children whenever possible (Garwood 1990). By the late 1990s, most children were still not participating in mediation in Scotland, despite the passage of the *Children Act 1995*, although the researchers predicted this pattern would change once the new law gained more hold in practice (Lewis 1999). The study of Lothian conciliators (Garwood 1990) found that all the children included in mediation met the mediators separately (siblings were seen together). Another 20 percent of children also participated in a subsequent family interview with parents and mediator.

An earlier survey in England (Ogus 1989, cited in Garwood 1990) found even fewer English and Welsh children being included in conciliation. They were involved in only 13 percent of the court-independent conciliation cases, and 15 percent of the court-connected conciliation cases involving children. By a random sampling of private mediators in the first half of 1997, an Australian survey found children directly included in only 11 percent of the mediations provided to families with children (Strategic Partners 1999). However, half of the 70 family court counsellors surveyed said they included children more than 25 percent of the time.

An earlier study of private mediators in California found a similar picture. It also provides insight into which children were included and how (Paquin 1988). Half the 124 mediators did not involve pre-schoolers at all, but 90 percent did involve school-age children; all felt that adolescents should be involved. In practice, mediators usually involved adolescents, particularly when the parents disagreed about the youth's feelings or needs, when the child requested it, or when the mediation was stuck. They involved pre-schoolers largely when they feared or suspected parental abuse or neglect, when the child was fearful of one parent, or was very stressed. They usually involved school-age children when parents were in great conflict or had agreed to give the child some decision-making responsibility.

5.2.2 Specific Ways to Include Children in Mediation

Children can be included in mediation in different ways (Saposnek 1991). They may be present during the mediation, either for all sessions or intermittently. As they did in the Scottish study, children may meet with mediators separately and have the mediator bring their concerns and interests back to the bargaining table on their behalf. The California mediators were most likely to see older children alone, and they were almost equally likely to see pre-schoolers alone or with both parents (Paquin 1988). In indirect mediation, the children's meeting with the mediator may occur at the outset of mediation or later. Both direct and indirect inclusion allow children's needs and interests to be heard in the mediation, assuming the mediator faithfully reflects the children's views. Including children directly in mediation deliberations, of course, makes them possible participants in the deliberations.

Children may also be included in mediation another way: they may be brought into the mediating room after the agreement has been reached, so that the mediator and parents can tell them what has been decided and seek their acceptance.

As indicated in section 2, programs designed to help children adjust to separation and divorce may be linked to mediation proceedings. In such cases, they have a secondary function of incorporating the children's needs and interests into mediation deliberations (as in, for example, the Centres jeunesse de Montréal's *Confidences* program or the Family Centre of Winnipeg's *Giving Children Hope*). Such programs may be a safe way for children to be included. They

may also be more responsive to mediators if their meeting comes at the end of a program designed to solicit their feelings and soothe their distress.

5.2.3 The Arguments for Including Children in Mediation

Researchers and practitioners disagree strongly about whether to include children in mediation and conciliation. One complexity in discussing this is that participants do not always distinguish the different ways that children can be included. They may say they oppose or support including children, but in reality they only support or oppose some ways of including children.

Researchers and practitioners who support children's inclusion say it helps the children, helps the parents focus on their children's best interests, gives parents a better sense of their children's wishes and feelings overall, produces better agreements for the children, and increases the chances that parents will comply with their agreements (Drapkin and Bienenfeld 1985, Landau 1990, and Saposnek 1983, cited in Saposnek 1991; Brown 1995). Specific purported benefits include:

- children can disclose their genuine feelings to mediators, which they often cannot or will not disclose to their parents;
- the mediator gives the children a nonaligned confidant while their parents battle, which can help reduce their fears and anxieties and at least makes them feel someone cares;
- the children feel they have more input and some, if limited, control during a period when their lives seem out of control;
- the children can deal better with their feelings by talking about their concerns and interests;
- the children are often confused and may be helped by hearing what agreements their parents have reached;
- children may cope better with changes if they know and understand the reasons for them; and
- parents are encouraged to recognize adolescents' growing independence and ability to develop their own lives.

Some supporters also argue that children should be included because they have a right to know (Brown 1995).

It is clear that children can receive most of the benefits listed above if they meet with the mediator separately, rather than participate directly in deliberations. However, some researchers say children need to be present at the table to force their parents' attention away from their own feelings of injustice, and toward problem-solving aimed at helping their children (e.g. Saposnek 1983, cited in Saposnek 1991; Paquin 1988). These researchers are most adamant about having children present in high-conflict mediation, when parents get stuck because of their mutual hostility. They suggest that the children's momentary exposure to intense conflict is worth the long-term rewards of an equitable agreement and subsequently less conflict (Paquin 1988).

Other researchers and practitioners who generally support including children believe they should be excluded in cases in which they are likely to feel responsible for resolving their parents' disagreements. However, there seems to be little research on whether including children directly is always likely to make them feel responsible, or on what the long-term effects of direct participation may be (McKenzie, pers. comm.). Many experts appear to feel that directly including children is not advisable in most cases because of the burden it places on the children (Kruk, McKenzie, pers. comm., see Appendix D; also Brown, 1995).

Given the risks in involving children directly, it has been proposed that parents and mediators sit down at the outset of the mediation process to agree beforehand about the role the children will play, and how the parents will conduct themselves during the mediation (Austin et al. 1991). Mediators can then use their judgement, based on this meeting, to assess the risks involved in including the children. The meeting can also be used to commit parents to responding more positively to their children if they do participate.

Some researchers believe that, when children are involved, it should be for a limited number of sessions only (Austin et al. 1991). Researchers are more likely to allow that adolescents who want to express their views in mediation should have that option, but urge that mediators proceed with caution (Kruk, pers. comm., see Appendix D).

Australian court mediators surveyed have said they would exclude children in cases when:

- parents could misuse information;
- parents were likely to manipulate children;
- one or the other parent has no interest in knowing the child's needs;
- parents do not want, or disagree about, the effect of including the child;
- the children are too young (the age limit varied);
- involving children will not help; and
- child sexual abuse is involved (Strategic Partners 1999).

Australia's Attorney General recently endorsed children's inclusion in mediation on a case by case basis (Australian Law Reform Commission 1997a). The government argued that children would receive a positive image of their parents communicating, negotiating and reaching an agreement, and that parents would be more likely to abide by their agreements (Australian Law Reform Commission 1997a). The Australian Law Reform Commission also has urged that children should participate in mediation and conciliation if they want to, and that ways should be found to encourage their participation (Australian Law Reform Commission 1997).

5.2.4 The Arguments Against Including Children in Mediation

Researchers and practitioners who oppose including children in mediation argue that it harms the children and undermines parental authority. The harmful effects cited for children (Marlow and

Sauber 1990, Emery 1994, Meggs 1993, cited in Brown 1995; Australian Law Reform Commission 1997a; Strategic Partners 1999; Myers and Wasoff, 2000) include:

- placing responsibility on children for making decisions their parents are unable to make;
- creating further stress for the child who may have divided loyalties;
- putting children at risk of retribution from disappointed parents;
- exposing the child further to parental conflict;
- placing the child in a position of power and so possibly eroding parent/child relationships;
- exposing the child to “system abuse” by which a child is damaged by repeated professional probing; and
- making the child the “problem” in families where parents do not want the child involved.

Many mediators also resist including children because they feel doing so violates their own neutrality and, therefore, their professional responsibility to their clients, the parents. By introducing the children’s feelings, needs and interests into the process—which may be inimical to the arrangements the parents are trying to negotiate—the mediator is impelled to become the child’s advocate (Beck and Bianck 1997; Wallerstein 1986-87). This seems to be a concern more of private mediators than court-appointed mediators, because the latter’s work is also governed by the principle of the child’s best interests. Nonetheless, some practitioners argue that private mediators do not violate their obligations by bringing a child’s concerns into the process (e.g. Beck and Bianck 1997).

In a recent study, Australian mediators and counsellors expressed reluctance to include children because they felt they themselves lacked sufficient confidence or expertise (Strategic Partners 1999). Court mediators overwhelmingly wanted more training, even though half of them already had child-oriented training at a university level. Other experts have also expressed concerns about mediators’ qualifications for working with children effectively (e.g. Brown 1995; Beck and Bianck 1997; Austin et al. 1991). Younger children generally express their feelings through their actions rather than words; indeed, they may be uncommunicative verbally or their words may be misleading. Canadian practitioners and service providers interviewed emphasized repeatedly that interpreting a child’s behaviour accurately requires considerable skill and knowledge of child development. Mediators typically do not receive this kind of knowledge during their training.

Many practitioners and researchers oppose including children in mediation both indirectly and directly. For example, the Australian Association of Social Workers told the Australian Law Reform Commission’s inquiry into children’s voice in custody and access that one of the results of counselling for many children is that they say they want their parents to leave them out of the dispute (Australian Law Reform Commission 1997a).

5.2.5 Research on the Effects of Indirectly Including Children in Mediation

Including children indirectly in mediation appears to be gaining ground. Australian researchers recently piloted an indirect inclusion program as part of their recent study of children in mediation. Studies of both the Scottish pre-reform mediation practice and the Australian pilot explored children's and parents' responses to indirect inclusion, but the long-term impacts on children and their post-parenting circumstances are not yet known.

The small study in Scotland has explored the effects of involving children in their parents' conciliation by means of separate meetings with the conciliators (Garwood 1990). Most of the 186 families in the Lothian Family Services program between 1986 and 1988 participated in order to decide custody and access arrangements, but some were there to initiate access before taking on access arrangements independently. Individual children (or, if there was more than one child, groups of siblings) usually met with the conciliator separately at the beginning of the conciliation, and the conciliator reported the children's wishes, concerns and feelings to the parents in subsequent sessions with them. A few conciliators only involved children through family sessions because they felt that seeing them separately undermined the parents' authority. The children's main concerns tended to focus on specific aspects of access, such as having to go to the football game with Dad every Saturday afternoon, rather than the central issue of custody. A few children wanted to reduce or limit access.

Follow-up with some of the families revealed that 25 of the 28 children who had seen conciliators separately thought the process had improved their communication with their parents, and helped them express their feelings. Several felt that it had improved or renewed their access to their parents. Children were more likely to think the experience unhelpful when their parents did not respond to their requests (and ended up in court). The children liked the conciliators and the sessions (Garwood 1990). Many of the children were unclear why they had met with the conciliator (although conciliators felt they had explained carefully), and some said they did not understand much of what the conciliator said. Some would have preferred individual meetings without their siblings present. However, none of the children appeared worried about their parents hearing what they said (although this did worry some of the conciliators).

In the Australian study, researchers explored the effects of including children in mediation through single-session private consultations, as part of their larger study of child-inclusive practice in family and child counselling and mediation (Strategic Partners 1999). They were forced to run the pilot after finding low inclusion of children in existing mediation and counselling programs. The pilot was modelled on the U.S. Center for Families in Transition's "separate representative" program. The small Melbourne-based study found that almost all the 17 children who had the single-session consultations were unequivocally positive about their experience (McIntosh 2000). The children cited having the opportunity to talk to someone, express their feelings, and have their parents hear their feelings and wishes as the main benefits. They even seemed to feel they benefited in these ways when their parents did not accommodate their feedback. Only four children thought there were situations in which their involvement would not help; these were when the children's involvement produced no changes in their parents' behaviour or when the children did not want, or need, to participate.

The mediation pilot included four sessions, with children interviewed by a child consultant after the parents' first mediation session, and the results fed back into the mediation. Children were

carefully briefed about the boundaries of the 60 to 70 minute session, and were told that their parents would be informed about how they generally seemed to be handling the family changes. They were also told that particular issues would not be discussed if the child did not want it. In sessions with the parents, the mediator discussed his or her general assessment of the impact of the separation on the child, the child's current needs, as well as any specific issues the child wanted raised.

Almost all the parents whose children participated thought the mediation had benefited the children, compared to about 60 percent of another group of parents whose children did not participate. Families were included in the study if parents and child had agreed to participate, and the parents were willing, with support from the mediator, to listen to and discuss their children's views. Most were families in low to medium conflict, although two were in high conflict. Parents mediating property-only cases were included. Earlier Australian studies of mediation services in Melbourne and Sydney (Moloney et al. 1996, 1995, cited in Strategic Partners 1999) had found that 40 percent of participating Melbourne parents thought their children had benefited from the mediation (which rarely involved children) through improved parental communication or improved parenting arrangements.

In the Strategic Partners pilot, the parents whose children were involved mainly felt their children had had a chance to "offload," share and find solutions. They frequently considered that this had led to more open communication between them and their children, and that the children had gained from their resolved conflicts. Several parents felt it was good for their children to have an outsider to talk to—someone they could speak to honestly—because their own conflict and distress was so great. Parents also indicated that they thought taking part in mediation, rather than counselling, avoided stigmatizing the child as troubled, and made the child feel he or she was trying to find a way through the problems, just as his or her parents were.

Mediators overwhelmingly supported the children's involvement. Still, they had reservations in several kinds of cases, believing that the model did not work well when parents remained overwhelmed, when the couple was in high conflict, when the children's feedback was given too much weight, or when parents could not reach agreement on parenting plans.

The Scottish and Australian studies suggest that including children indirectly in mediation may not harm them, and may help their parents reach agreements that serve their best interests, as well as improve communication between the parents and children. Without further longitudinal follow-up, however, it is difficult to assess the long-term impact of these children's participation on their own well-being, on the durability of the agreements reached with their participation, or on whether the agreements reached better served their best interests.

Still, some experts remain cautious about one-on-one interviews between mediators and children (Kruk, pers. comm., Appendix D). Experts emphasize that when children are included in mediation, they should be clearly told that whatever they discuss with the mediator will be shared with their parents, and perhaps with lawyers and judges (Brown 1996). Yet, in spite of what conciliators thought were clear explanations, many children in the Scottish study, for instance, did not really know why they were meeting with the mediator, or by implication, how their words would be fed back into their parents' mediation.

Given these problems, experts also warn that children should not be pressured to go beyond their comfort zones in expressing themselves to mediators, since they may later pay a price for their words to vengeful parents (Brown 1996). Moreover, even without parents present, eliciting genuine feelings from a child is difficult. Experts appear to agree that younger children should never be directly asked questions such as “Who do you want to live with?” Moreover, when children state preferences, as older children usually do, the experts urge mediators (and other professionals eliciting the child’s voice in proceedings) to balance the children’s wishes against their knowledge of the family context (Brown 1995, 1996; Austin et al. 1991).

5.2.6 When to Include Children During Mediation

There is no consensus about when children should be included in the mediation process. Researchers identify both disadvantages and advantages in including them at the beginning, middle or end of the process (Brown 1995). Including them at the beginning may help parents focus on their children’s needs from the outset, but one expert likens it to “traversing a minefield without having first cleared the mines or finding out where they are” (Brown 1995). On the other hand, if mediators include children only at the end of the process, to comment on the arrangements, children may be spared any participation in the conflict, but may also feel that their voices have not really been heard.

5.2.7 Child Assessments in Mediation

Some practitioners have proposed that mediators include child assessments as part of their mediation (Beck and Bianck 1997). The assessments would be done by a child therapist, and information about the child’s mental state and needs would be reported back to the parents by the mediator. Practitioners argue that commissioning child assessments is an effective way to help ensure that mediated decisions are in the child’s best interests, while also taking account of mediators’ concerns about neutrality and the level of mediator skills and training in dealing with children.

5.2.8 Mediation and High-conflict Families

As indicated above, most researchers and practitioners strongly oppose including children directly in mediation when parents are in high conflict, although a minority do favour it. There is less agreement on whether children should be indirectly included by independent meetings with the mediator. In any case, children in high-conflict families are the most likely to be manipulated, put in the middle, and even punished by their hostile parents, and are therefore more at risk than other children even if their participation is indirect.

As indicated in section 2, hybrid therapy-mediation programs for parents and children can provide a safe vehicle for including children in the mediation; children can report back to their parents as a group, and there are therapists to mediate their reports with the parents. As indicated above, no studies were found that specifically assessed the impact on high-conflict children of either their participation in the children’s groups (with other children of high-conflict parents) or, indirectly, in their parents’ mediation. Studies have found benefits for the parents, especially their ability to resolve their disagreements and abide by them without returning to the courts (see citations in Johnston 1994).

5.3 CHILDREN'S VOICES IN OTHER PROCEEDINGS

Outside mediation and conciliation, children's voices may be indirectly heard in custody and access proceedings in three main ways: family assessments, the testimony of expert witnesses, or a separate children's representative (Australian Law Reform Commission 1997a). All three of these methods can include the child's voice in courtroom hearings, insofar as they are used in, or participate in, courtroom deliberations. However, all three provide means by which children's voices can be heard in the courtroom, without the children themselves having to participate as parties to the hearing or by providing testimony (Shear 1996; Australian Law Reform Commission, 1997a). Moreover, custody assessments and the roles sometimes played by children's lawyers outside the courtroom often help parents reach an agreement at the courtroom door, thereby averting courtroom battles that most experts believe are stressful and frequently damaging to children (Kruk, pers. comm., see Appendix D; also Shear 1996), and may no more capture children's genuine preferences than proceedings outside the courtroom (Grassby, pers. comm., Appendix D).

5.3.1 Family Assessments (Court Evaluations, Family Reports, Home Reports)

Federal and provincial legislation in Canada permits courts to order assessments for families and children who are litigating custody and access (or other) disputes. Parents and attorneys may also initiate court or family assessments privately, or request them from the court. The basic purpose of a typical full assessment is to evaluate the children's needs, and the parents' willingness and ability to meet those needs (Austin et al. 1991). If the case reaches final hearing, the report is usually presented to the court and used by judges in making their ruling.

It is not known how often courts commission family assessments in custody and access cases in Canada, although every jurisdiction contacted for this report uses them to some extent (see Appendix B). However, about 60 percent of Australian cases proceeding to trial involve family reports (Australian Law Reform Commission 1997a). Australian courts also report that, when they are involved, family reports either prompt settlement before final hearing, or are followed by judges 76 percent of the time (Australian Law Reform Commission 1997a). Canadian officials estimate similarly high rates of settlement and influence on judges' rulings in Canada (Behr, pers. comm., Appendix D). In the United States, too, studies show that judges follow custody assessment recommendations about 85 percent of the time. In 70 to 90 percent of the cases, parties reach a settlement after hearing the recommendations, which is then entered as a consent judgement (see citations in Johnston 1994).²

Assessments are governed in most jurisdictions by the principle of the child's best interests. They are not intended to be vehicles for children's wishes and preferences. Evaluators typically see themselves as neutral parties evaluating the child's best interests. An exception is Ontario's Office of the Children's Lawyer, whose social workers see themselves as advocates for the best

² However, agreements reached as a result of custody assessments seem less durable than agreements reached through mediation. One two-year follow-up study found families who had had custody evaluations re-litigated at two and a half times the rate of those who had settled by themselves (19 percent compared to 7 percent) (Ash and Guyer 1986, cited in Johnston 1994). Another eight-year follow-up study found similar results: 71 percent of those with custody evaluations re-litigated compared to 41 percent of the divorcing population in general (Hauser and Straus, cited in Johnston 1994).

interests of the child. Social workers, psychologists, or sometimes mental health professionals, typically prepare the assessments. They are used as alternative or additional expert testimony presented to the court.

A typical comprehensive family assessment will include interviews with each parent and the child in the home(s), and may include further interviews with the child alone. Most family assessments done for Canadian courts are comprehensive family assessments (see Appendix B).

5.3.1.1 The Children's Voice in Family Assessments

There is no agreement about whether family assessments provide an effective vehicle for hearing children's voices. Several submissions to a recent Australian Law Reform Commission inquiry argued, for example, that family assessments are effective because they allow children's wishes and opinions to be expressed without making them decision-makers (Australian Law Reform Commission 1997a). The assessment allows experts to decide whether, and to what extent, a child's views should be put forward to the court, thus, promoting the child's best interests and protecting him or her.

Critics of family assessments argue, however, that they leave too much room for experts' biases, experiences, training and values to shape the result (Bala 1990, cited in Huddart and Ensminger 1995). Some of these critics insist that counsel should have the right to be present at the examination on which the assessors' judgements will rest, or that these be video-taped (Sachs 1985, cited in Huddart and Ensminger 1995).

One way around this problem is to permit courts to commission investigations by any person satisfactory to the court at the parties' expense (Huddart and Ensminger 1995). However, a report commissioned by a parent—one of the parties to the dispute—is no less likely to reflect the investigator's bias; it would also likely add the parent's bias, and would open the door to the battle of competing assessments in courtroom deliberations.

Most experts and practitioners hold the same view about the role of children's wishes in custody assessments as they do about children's wishes in mediation. They resist giving children's wishes much weight in family assessment recommendations, except in certain cases when children are older and the issues are delimited (see sections 4.3.a.ii and 4.3.a.iii below). This resistance is motivated by the rationality and authenticity concerns raised in section 3, as well as a mandate to serve the child's best interests, which most experts and practitioners believe does not always coincide with the child's best interests.

Experts argue that assessors need to consider children's wishes in the context of their needs, which are identified using legal and clinical criteria of "best interests" such as parenting ability or the length of time children spend in a stable home. The more congruence between children's wishes and the assessment of their needs, the more congruence there will be between their wishes and the report's recommendations (Austin et al. 1991; Brown 1996a). They emphasize that there is no easy formula for combining age and maturity in measuring wishes, but the broader context of children's needs must always be considered.

In Ontario, the Office of the Children's Lawyer prepares 1,500 to 1,700 social work reports or family assessments a year for Ontario courts. Office officials say that the child is always

interviewed in these reports (McTavish, Moyal and Martin, pers. comm., Appendix D). However, as advocates for the child's best interests, rather than neutral assessors, Office investigators only include children's preferences in the report when doing so is in the child's interests and does not pose harm. The Office considers the child's wishes to be one piece of the puzzle in assessing the family; it is *why* the child is saying what he or she is saying that is most important (McTavish, Moyal and Martin, pers. comm., Appendix D). The Office deals with high conflict families (average time in litigation is more than three years) and many cases involve violence and abuse, or allegations of them.

Youth advocates have criticized family assessments for stifling teenagers' voices that could and should be directly heard. Youth advocacy organizations told the Australian Law Reform Commission inquiry that family assessments fail to uphold many teenagers' rights under the Convention for the Rights of the Child when they substitute for youth who can speak directly to the court. The Commission concluded that "it is important to remember that a family report may not adequately discharge the obligation under CROC to provide children who desire to participate directly in proceedings with an opportunity to be heard as required" (Australian Law Reform Commission 1997a). It recommended that when children are old enough, they should be allowed to give evidence on their wishes directly in court (Australian Law Reform Commission 1997a).

5.3.1.2 Focussed Assessments

Focussed assessments, when they are relevant, may provide a better vehicle for children's voices than traditional comprehensive assessments (although they do not overcome all the criticisms raised above). Pioneered and studied in Canada by Ontario's Office of the Children's Lawyer and the Clarke Institute of Psychiatry (Birnbaum and Radovanovic 1999), focussed assessments may reduce the burden of traditional assessments, and provide opportunities for children's perspectives to be given greater weight. Focussed assessments were researched in the 1990s as a short intensive pilot intervention for high-conflict litigious parents in access denial disputes that did not involve violence or abuse (Birnbaum and Radovanovic 1999). Whenever possible, parents were seen together or with the child early in the intervention, and this was followed by parent-child interviews as well as interviews with the child alone.

Researchers found that a 10-hour intervention focussing on specific problems in dispute was more effective than the conventional, comprehensive and more usual 22-hour assessments. Just under half of the 40 parents in the pilot continued to have disputes, 30 percent reported continuing poor to very poor parent cooperation, and 55 percent said the intervention had not helped improve their communication with their spouse. However, 35 percent said their existing visitation arrangements had been arranged with the assistance of the clinicians, and 63 percent said the evaluators' suggestions were incorporated during court motions covering their disputes shortly after the intervention.

The Office of the Children's Lawyer estimates that 10 to 15 percent of the 1,500 to 1,700 social work reports it does each year are now focussed assessments (McTavish, Moyal and Martin, pers. comm., Appendix D). The assessments are used for access-based disputes involving specific problems (such as a child wanting to visit with Dad on Saturday morning rather than Friday night) and usually involving older children aged 14 and 15. Typically, the child's wishes and the facts of the dispute are clear, and the assessment is to satisfy the court that the proposed

arrangement is what the child really wants, and is without detriment to the child (McTavish, Moyal and Martin, pers. comm., Appendix D). The focussed assessment enables families to concentrate on a specific dispute involving the child while bracketing other ongoing conflicts.

While courts in several provinces appear to be using focussed assessments more frequently, how many assessments are actually focussed assessments is not known (see Appendix B). In Alberta, focussed or mini-assessments are usually prepared when cases are not likely to go to court (and not as an adjunct or follow-up to mediation) (Delanghe, pers. comm., Appendix D). They provide an alternative tool for parents trying to resolve disputes, and lawyers may recommend them for that purpose.

5.3.1.3 Views of the Children Reports

Courts in British Columbia may order short reports specifically to ascertain children's views when a full report is not justified (Morgan, pers. comm., Appendix D; also Huddart and Ensminger 1995). These are typically used to assess and present teenagers' wishes in specific access disputes. In preparing the reports, counsellors try to describe the child's character and personality, and the child's capacity to state his or her views. Counsellors give their opinion as to whether the views are authentic (Huddart and Ensminger 1995). Focussed assessments appear to fulfill this function in Ontario, and possibly elsewhere.

Views of the children reports are not available in all parts of the province because some family court counsellors are unwilling to interview children directly in this way (Huddart and Ensminger 1995).

5.3.1.4 Reducing the Harmful Effects of Family Assessments

There is some concern that family assessments may harm children. One Australian organization providing legal services for children told the Australian Law Reform Commission inquiry that family reports are intrusive and traumatic for children, partly because they take so long to prepare and often have to be updated by the time of final hearing. They therefore add to the excessive interviewing and probing of children who are caught in the middle of protracted high-conflict litigation (Australian Law Reform Commission 1997a). Recognizing this problem, Australia's Family Law Council recently recommended that courts determine whether other relevant reports already exist in the community before commissioning a family assessment through the court (Family Law Council of Australia 1996).

The Australian Law Reform Commission, while acknowledging the problem, suggested that family reports are nevertheless useful tools, and integral to expanding children's voices in custody and access proceedings (Australian Law Reform Commission 1997). Its report argued that including independent evidence from family reports early in court hearings of disputes frequently led to early settlements and avoided lengthy court battles. The reports were also a better use of finite court resources, and a better way for children to be heard than having them participate in court hearings (Australian Law Reform Commission 1977a). Most experts appear to believe that younger children should be kept out of the courtroom whenever possible (Kruk, pers. comm., Appendix D).

5.3.1.5 Modifying the Role of Assessments and Assessors

Several ways have been proposed to enhance the role of family assessments and assessors to better serve children's best interests in custody and access decisions. The Australian Law Reform Commission has proposed a number of recommendations aimed at expanding the investigative powers of court counsellors preparing family assessments, and linking these counsellors more effectively with the legal side of proceedings, including the children's representatives (Australian Law Reform Commission 1997a). Ontario's Office of the Children's Lawyer has developed a social worker-lawyer team program for high-conflict parents that integrates the family assessment and legal guidance functions (see section 5.3.3.1 below).

The Australian Commission recommended that family reports be prepared sooner, that court counsellors' investigative powers be expanded to permit wider examination, and that court counsellors writing the reports take on a greater role in providing information to the court about the child's best interests (Australian Law Reform Commission 1997a). The Commission suggested that counsellors' report gathering should include many of the functions currently performed by the child's representative, such as conducting relevant collateral interviews with school and other community officials (Australian Law Reform Commission 1997). Moreover, in cases when a child has not been assigned a representative solely because he or she is unwilling to express a view, the court counsellor should be responsible for keeping the child informed about the progress of the litigation (Australian Law Reform Commission 1997).

As outlined in section 2, the children's program of the Centres jeunesse de Montréal also provides a link between the assessors and the counsellors providing group therapeutic emotional help to the child. When possible, the assessors are present at the counsellors debriefing with parents at the end of the program (see Appendix A).

5.3.2 Expert Witnesses

Expert witnesses may be ordered by the court to testify in custody and access court hearings. These expert witnesses are usually mental health or counselling therapists who have had dealings with the family. Several of the counsellors and therapists who operate children's programs in family service agencies or mental health institutions said they are often called to testify as expert witnesses (and some also prepare custody assessments in other cases).

Parents may also call their own expert witnesses to testify at hearings. However, mental health evaluators are generally most useful if they serve as an impartial expert appointed by the court (or by stipulation of both parties), rather than as an expert retained by one party, and who is then pitted against the other party's expert (Johnston 1994).

Some concerns have been expressed about harm to children resulting from experts' excessive interviewing of children (Australian Law Reform Commission 1997a). At present, Australian courts can appoint experts, or any party can request their appointment. The Australian Law Reform Commission concluded that experts are often appointed when a family report would do. It recommended that the court take the child's wishes into account when deciding whether to grant application for the child to be interviewed (Australian Law Reform Commission 1997a).

Some Canadian therapists who run programs for children experiencing parental separation and divorce, and who are often required to testify in court for the children, say that being forced into the dual role of therapist and expert undermines their therapeutic effectiveness (Sinclair, pers. comm., Appendix D). Children need to feel that the programs are providing a safe space for them. When the counsellor appears in court to testify, this trust is broken.

5.3.3 Separate Representatives

Many jurisdictions allow for the appointment of children's representatives—usually lawyers—to represent children's best interests in the courtroom and outside it. The roles and responsibilities of children's representatives vary widely across jurisdictions. They may act, traditionally, as the child's counsel in court hearings (governed by either his or her instructions or best interests, depending on the child's age), or as a friend of the court, presenting information and considerations that might otherwise be ignored (e.g. Shear 1996; Australian Law Reform Commission 1997a; Huddart and Ensminger 1995; Bessner 2001). In some jurisdictions, the representatives assume certain powers of the court and can make binding decisions on custody and access disputes outside the actual courtroom. Other representatives may play investigative, supportive or advocacy roles outside the courtroom.

In Ontario, the Office of the Children's Lawyer expands the traditional separate representative role in a program that integrates the legal roles of children's representative with the investigative and assessment roles of social work reports (family assessments). The Australian court system expands the traditional separate representative role in a different direction by giving the representative the dual responsibility of communicating the child's perspective to other parties and representing the child's best interests.

5.3.3.1 Social Worker-Lawyer Teams in Ontario

Ontario's Office of the Children's Lawyer has pioneered social worker-lawyer teams for high-conflict, extremely hostile families who are entrenched in litigation and who are seen to need both clinical and legal services. The interdisciplinary team provides family assessment and legal advice to the families, but integrates these services for maximum effect. Once team members are assigned to a family, they work together to decide what should be done and by whom, meeting repeatedly with parents and with the children on their own. The primary goal is to forge a resolution that is in the child's best interests before the case reaches final hearing. The social worker prepares an assessment of the family, often involving collateral interviews with school and other officials, which is used by the lawyer providing legal advice and guidance in discussions with the parents. Alternatively, the lawyer can help the social worker use the assessment to forge resolution by focussing parents and their counsel on the legal options. If the parents do not settle, the lawyer proceeds to pre-trial conference to represent the child's best interests, and the social worker presents his or her report to the court.

Office officials believe about 75 to 85 percent of social worker-lawyer team cases settle without going to court (Moyal, Martin, McTavish, pers. comm., Appendix D). It is not known how many of the families who do settle re-litigate later. The Office expects to be able to track outcomes soon, but officials caution that settlement rates are not a good measure of program success. About one third of the Office's 3,000 to 3,500 cases are assigned social worker-lawyer teams.

Office officials believe that integrating the social work assessments with legal deliberation provides a safe, effective way for children's voices (mediated through the family assessments) to be heard and to influence decisions to reflect their best interests. Yet they do not expose children to the harm and retribution they risk if the case goes to court and they have to testify there (as high-conflict parents often want). Australia's Family Law Council, in a 1989 report, also recommended that the role of separate representative be undertaken by a team made up of a solicitor and social worker (Family Law Council of Australia 1989, cited in Australian Law Reform Commission 1996).

5.3.3.2 Separate Representatives in Australia

In a 1995 decision, the Family Court of Australia ruled that children's representatives should act in an independent and unfettered way in the child's best interests, that they should impartially make submissions to the court suggesting courses of action in the child's best interests, and that they should convey the child's wishes to the court. In addition, the representative should arrange for the collation of expert evidence and otherwise ensure that all evidence relevant to the welfare of the child is before the court (Brown 1996).

Separate representatives in the Australian courts are therefore expected to speak to the children outside the court, and when appropriate seek their wishes. At the same time, they are required to work closely with custody evaluators or mediators when these have been appointed in cases. When opinions among these professionals differ, the separate representative's job is to present *all the differing opinions* to the courtroom. However, the representative has no duty to make submissions to the court which represent the child's wishes or argue for best interests, or argue for a case outcome in line with the child's wishes. This hybrid role is applauded by experienced mediators in the Australian court system for bringing together the children's preferences (articulated needs and concerns) and the family context in which they occur, and bringing the whole picture before the court (Brown 1996). The separate representative functions as a kind of cipher for the children's best interests, rather than an adjudicator of those best interests. In many cases the representatives play a critical role in brokering settlements outside the courtroom that are in the children's best interests rather than a parent's (Nicholson 1996).

However, the Australian Law Reform Commission has expressed several reservations about the current model of separate representation in Australia. It has asked whether this kind of separate representation goes far enough in meeting the requirements of the Convention on the Rights of the Child (Australian Law Reform Commission 1996). It has also suggested that the multiple roles of separate representatives may conflict. They may be asked to conduct investigations and make assessments that are properly within the range of expertise of social scientists, and then to draw conclusions in submissions on the basis of that assessment which are properly within the province of the judiciary (Australian Law Reform Commission 1997).

The Commission has indicated that separate representatives' investigative roles and dispute-resolution efforts with the parties outside the courtroom could be done instead by court counsellors or family assessors (Australian Law Reform Commission 1997). It has also urged that the separate representative's role be kept fluid (Australian Law Reform Commission 1997). Since the multiple separate representative roles require multiple skills, the Australian family court has conducted extensive training for representatives, and believes the quality of representation has improved significantly as a result (Nicholson 1996).

In addition, the Commission has expressed concern that children may not appreciate the complexity of their separate representatives' responsibilities. One New South Wales study of children in child welfare hearings revealed that the children expected their lawyer to act as their advocate or interpreter of their views, but few lawyers thought this was their job (Australian Law Reform Commission 1997).

5.4 CHILDREN'S COORDINATORS

The discussion so far in section 5 has looked at ways in which children's voices can be included at specific stages and in specific ways in custody and access proceedings. However, some methods exist that may be able to ensure that children's voices are included all the way along the litigation pathway as needed. In its 1989 report, for instance, Australia's Family Law Council recommended introducing a children's coordinator in addition to a separate representative in family law proceedings (Family Law Council of Australia 1989, cited in Australian Law Reform Commission 1996). Under this model the separate representative would retain full control over the conduct of the child's case in court. The coordinator, on the other hand, would perform such functions as producing a report on the child's best interests, interposing the child's interests in discussions between the relevant parties, working with the separate representative and explaining some of the processes to the child. (The social worker in Ontario's team model fulfils many of these functions.)

The Family Law Council suggested further that the coordinator could be appointed alone in appropriate cases (Family Law Council of Australia 1989, cited in Australian Law Reform Commission 1996). It also suggested that the coordinator role could be filled by a number of professionals, including court counsellors and welfare officers, depending on the case.

In its recent report, the Australian Law Reform Commission raised the idea of appointing "child's interest coordinators" to oversee and manage complex cases before the courts (and thereby take over some of the current separate representatives' and counsellors' functions) (Australian Law Reform Commission 1997a). It indicated that the major unanswered question was whether the use of these coordinators or special masters would reduce litigation in cases in which litigation would otherwise be likely (Australian Law Reform Commission 1997a). It also wondered whether coordinators would be more effective if arbitrators or judicial registrars, who could provide advice and decision making where necessary, provided support.

In some American jurisdictions, mental health specialists (variously called court masters, custody commissioners, co-parenting counsellors or guardian ad litem) are appointed by the courts, or at the parties' request, to help families with custody and access decision-making on an "as needed" basis at any point in the proceedings (Johnston 1994). These coordinators may provide counselling, mediation, recommendations or arbitration, depending on parents' requests. They are considered most useful in high-conflict cases in which parents repeatedly litigate, in families with children who have special needs or with parents who have mental health problems, or in cases in which the children are very young and initial custody and access arrangements may need frequent revision. The effectiveness of these specialists in easing conflict and reaching speedy agreements, or in allowing children greater voice in decisions, is not known.

6. CONCLUSION

In spite of growing interest in programs that respond to the needs, wishes and concerns of children experiencing parental separation and divorce, there are only a sprinkling of programs and services specifically for children in Canada and other English-speaking countries. Interviews with providers and court officials indicate strong support for programs to help children adjust to their parents' separation and to the subsequent dramatic changes in their lives. Providers and court officials report a strong demand for such programs by parents as well, and too few resources and services to meet the current demand.

Research indicates that the period during family breakdown is the most acutely stressful for children, but that most children's acute stress fades quickly. In addition, most children who experience parental separation or divorce reach adulthood without identifiable psycho-social scars. Overall, research does not show that children's responses to parental separation, or their later responses, are important factors in determining their long-term adjustment.

Nonetheless, researchers have identified "tasks of adjustment" that all children must accomplish to adapt successfully to their parents' separation or divorce. Children who fail to achieve these tasks risk poor long-term outcomes. The research also shows that parents, struggling to adjust themselves to their family's breakdown, often cannot help their children achieve the tasks they need to do during the period of separation, and may hinder them. Many of the existing programs to help children adjust are structured to help children move through these tasks.

Research on the effectiveness of existing programs is limited, and shows only modest direct influence on children's adjustment. However, some experts defend these programs on the grounds that focussing on the children's responses to separation and divorce may still be an effective strategy, given the greater difficulty of influencing parents' attitudes and behaviours. Moreover, even small changes in a child's responses may facilitate the parental adjustment which research shows is very important to the child's long-term adjustment prospects.

Practitioners and researchers are less certain about including children's voices in custody and access proceedings. Canadian court-based mediators rarely include children in mediation, especially younger children, and other mechanisms to convey children's voices, such as custody assessments, are used only in a minority of family disputes in court. A similar situation seems to apply in most other jurisdictions.

However, courts in some provincial jurisdictions are beginning to explore ways to increase the inclusion of children's voices in custody and access proceedings. As well, some provincial jurisdictions have developed programs to provide children involved in certain kinds of proceedings and disputes with a safe indirect way to have their voices heard in decisions.

Practitioners and researchers who oppose including children's voices most often argue that including children harms them, since it may make them feel responsible for decisions, or exposes them to parental anger, retribution, manipulation and more conflict. In some cases, opposition may stem from the view that these decisions are the parents' responsibility.

Relatively few practitioners or researchers appear to support including younger children directly in proceedings, for example, by sitting them down around the mediation table with their parents. Most support inclusion that is indirect, as when children meet separately with the mediator, or when the mediator meets with the parents, child and counsellor after the child has participated in a children's support program. Experts who support children's inclusion also caution that children's expressed wishes and concerns need to be weighed together with other factors, since their wishes and concerns may not always be genuine.

The little research that exists on including children in custody and access mediation indicates that indirect inclusion may not generally harm them and may serve their best interests.

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APPENDIX A

CANADIAN PROGRAMS FOR THE CHILDREN OF SEPARATING AND DIVORCING PARENTS

Table A.0 Canada-Wide

Type of Program	Program Description and Evaluation
<i>Rainbows</i>	<p>Program Description</p> <ul style="list-style-type: none"> • Peer support program operating, or licensed to operate, at 1,070 sites in all Canadian provinces except Saskatchewan. Not available in the Territories (see Appendix C for full program description and evaluation of some U.S. sites). Number of sites offering regular programming is unknown. In 2000, the Canadian program served an estimated 9,000 children, with grades four through six the largest age group served. An estimated 85 percent of participants were children of divorce or separation (Bertram, pers. comm.). • Offered primarily by schools and religious organizations. Availability varies greatly by region—there are two sites in PEI and none in Toronto, for example, but 95 percent of schools in Durham Region northeast of Toronto have programs. Organizations approach program offices for licensing, training and materials. Knowledge of the program is largely by word of mouth. • About one-half of participating Canadian children receive the religious version of the program, and one-half the secular version. • There are long waiting lists to participate in the four Barrie, Ont., program sites (which serve a total of of 20 children at a time), but it is not known whether waiting lists exist elsewhere too.

Table A.1 British Columbia

Type of Program	Program Description and Evaluation
Court-connected Programs	No program is currently offered. However, officials are considering whether to add a children’s program, either as a component to the existing <i>Parenting After Separation</i> parent education program, or as a program especially for children (Morgan, pers. comm.).
Community Programs <i>Peer Support Group for Children, ARK Child Services Society</i>	<p>A sprinkling of programs available.</p> <p>Program Description</p> <ul style="list-style-type: none"> • Therapeutic program for children and parents experiencing separation and divorce, funded by the Province and linked to the Burnaby-New Westminister Family Justice Centre. Provides group and individual counselling (Morgan, pers. comm.). • Program goals are to: <ul style="list-style-type: none"> • provide parents and children a (separate) opportunity to meet and share with peers; • provide an atmosphere of belonging, love and security in which children can share their feelings; • help the children express and understand their feelings; • discuss various topics such as grief, anger and trust; and • support parents through the divorce/separation process and discuss topics of the parents’ choosing. • Open to all families, but preference is given to families referred by the Burnaby/New Westminister Family Justice Counsellor (only children so referred receive the additional individual counselling). • Intensive intake of up to 12 hours per family, followed by six group sessions of 2.5 hours each for parents, and 2.5 hours each for children. There is a maximum of seven children per session. • Up to five individual therapy sessions for each child, up to 40 hours total service. • Agency staff provide information and liaison to Burnaby-New Westminister Family Justice Centre staff and other government agencies.
<i>Connections ARK Child Services Society</i>	<p>Program Description</p> <ul style="list-style-type: none"> • Peer support group curriculum for children experiencing crises, traumas, or upheavals due to their parents’ separation or divorce. • Purpose: <ul style="list-style-type: none"> • To be used by professionals (school counsellors, therapists, social workers, pastors, etc.) trained in listening skills, to help youth discuss their feelings and experiences of divorce or separation. Can be used with a minimum of preparation. • Premised on the assumption that children are more likely to turn to sympathetic adults or trained counsellors to talk about their experiences than to their parents, extended family or classmates. • Designed for groups of four to seven children, led by one or two adults. • The curriculum is flexible for different age groups. It can incorporate drama, puppets and other activities for younger children.

Table A.1 British Columbia (cont'd)

Type of Program	Program Description and Evaluation
<i>Kids' Turn Vancouver</i>	Program Description <ul style="list-style-type: none">• Adaptation of the San Francisco-based <i>Kids' Turn</i> program (see Appendix C), offered since 1997. Concurrent parents' and children's groups (http://www.members.home.net/kidsturn/hompage).• Age- and activities-based children's sessions. Program runs five sessions a week.
<i>Circle of Friends</i> <i>Boys and Girls Clubs of BC</i>	Program Description <ul style="list-style-type: none">• Support group for young people aged 8 to 20 suffering loss, including family deconstruction (information on this BC program is available on this Saskatchewan Justice website: http://www.saskjustice.gov.sk.ca).• Professionally led weekly meetings in schools or community agencies.• Potential participants meet for a one-hour orientation with a trained facilitator, where confidentiality is also taught and stressed.
Other	Counselling <p>Individual and family counselling is available privately and through community agencies.</p>

Table A.2 Alberta

Type of Program	Program Description and Evaluation
Court-connected Programs	The Province's mandatory parent education program currently includes no children's component. However, there are suggestions to add a children's program (Delanghe, pers. comm.).
Community Programs	There is little available through social service agencies, although <i>Rainbows</i> is fairly widely available (see Table A.0).
<i>Children of Divorce Program Calgary Counselling Centre</i>	<p>Program Description</p> <ul style="list-style-type: none"> • Program to help children and parents adjust to life changes resulting from separation and divorce (http://www.inform.calgary.org). • Groups are therapist-led. • Open to all families in which parents have been separated at least six months. • Fees are charged on a sliding scale up to \$90 per counselling hour. <p>Program Evaluation</p> <p>Published pre-test results of an evaluation begun in 2000 show 60 percent of children from divorced homes in the program showed signs of clinical depression, compared to 20 percent of children in intact families in a control group. Dominant signs were low self-esteem and high irritability. Three-quarters of divorced parents were experiencing clinical levels of stress related to life-situational factors and two-thirds were experiencing stress related to parenting the children. One third were experiencing extreme crisis placing them at risk of abusive behaviour, compared to none of the parents in intact families (Wolfe 2001, cited in Bacon and McKenzie 2001).</p>
Other	<p>Counselling</p> <p>Individual and family counselling available privately and through community agencies.</p>

Table A.3 Saskatchewan

Type of Program	Program Description and Evaluation
Court-connected Programs	A curriculum was developed two years ago for a program for children experiencing parental separation or divorce, but no program was implemented because of lack of resources (Behr, pers. comm.). <ul style="list-style-type: none">• Proposed education-oriented course involves three to four weeks of two-hour sessions for children only.• Court officials are considering how community agencies might deliver the course (Behr, pers. comm.).
Community Programs	A sprinkling of programs is available around the province, provided by various agencies (Digout, pers. comm.). Individual and family counselling are also available in provincial centres.
Other	Counselling Individual and family counselling are available privately and through community agencies.

Table A.4 Manitoba

Type of Program	Program Description and Evaluation
<p>Court-connected Programs <i>Caught in the Middle</i></p>	<p>Program Description</p> <ul style="list-style-type: none"> • Voluntary, court-provided support and education program for children 8-10 or 11-12 years old whose parents are in conflict over separation and divorce issues (http://www.gov.mb.ca/fs/programs/brochures). • Small groups of six to eight children in either of the two age groups are given an opportunity to work through their questions, concerns and anxieties with children their own age on issues of self-esteem, family restructuring, loss, anger and grief, stepfamilies, blended families, dealing with family conflict, loyalty issues, feelings and legal concerns. No parents' program link. • Therapeutically oriented, experiential sessions led by professional counsellors. • Ten weekly 90-minute sessions, offered twice a year in Winnipeg, serving about 14 to 18 children a year. • Children are screened with parents before entry to ensure that their ages are appropriate and that the program is likely to benefit the children. Parents and children may meet with the facilitator again at the end of the program. • Free to all Manitoba children, including children whose parents divorced several years earlier. Parents typically bring their children because they feel a problem exists or they want their children to be informed about the process (Bewski, pers. comm.). • This program was developed a decade ago by Manitoba court staff, based on contemporary research. Court officials are considering shortening the program, offering it more often and reviewing the content (Bewski, pers. comm.). <p>Program Evaluation No recent evaluation is available.</p>
<p>Community Programs <i>Giving Children Hope</i> <i>The Family Centre of</i> <i>Winnipeg</i></p>	<p>Program Description</p> <ul style="list-style-type: none"> • A program for parents and children in high-conflict families experiencing separation or divorce, aimed to help parents refocus on their children's developmental needs (Rauh, pers. comm.). • Parents involved in litigation required to suspend it during the program. • Consists of therapeutically/oriented parallel sessions for small separate groups of about six parents and children. The parents attend six weekly therapeutic sessions separately, followed by another six weeks of joint mediation to develop shared parenting plans. The children's sessions begin two or three weeks before the adult sessions. The children's sessions are activity- and age-based. • One adult and two children's therapists lead the sessions. • Extensive intake assessment involving four meetings, one each with individual parents, and one with each parent and child. • The sessions are based on a manual developed by Janet Johnston (Johnston and Roseby 1997); includes some modifications depending on families. <p>Program Evaluation The evaluation is nearly finished, involving qualitative research with 10 families, and quantitative analysis using parent conflict scale and parent-rated child behaviour scale. Quantitative data are positive, showing families cease litigation and are able to sustain parenting plans reached during mediation. Families in this evaluation completed the program up to two years ago.</p>

Table A.4 Manitoba (cont'd)

Type of Program	Program Description and Evaluation
Other	Counselling <ul style="list-style-type: none">• Family counselling provided for parents and children experiencing divorce and separation at Family Centre.• Counselling is also available in some other agencies in Winnipeg and in other centres.

Table A.5 Ontario

Type of Program	Program Description and Evaluation
Court-connected Programs	<ul style="list-style-type: none"> • None (Dwyer-Hunte, pers. comm.). • Family Court clinics connected to courts in various provincial centres may provide programs for children. Since 1999, each unified family court in the province contracts for four services, including parent education programs. It is not known if any of these programs include children’s program components. • Until recently, Toronto’s Family Court Clinic partnered with the Clarke Institute of Psychiatry to provide <i>For Kids’ Sake</i>, an intensive therapy-based program for children in distress as a result of their parents’ high conflict separation and divorce.
Community Programs <i>Specialized Programs for Changing Families</i>	<p>Program Description</p> <ul style="list-style-type: none"> • <i>Families in Transition</i> (FIT) offers therapeutic programs for children and their parents, solution-focused individual and family counselling, educational group programs and closed mediation of parenting plans in which children may be involved. • The programs (including support-groups for lone parents and a program for stepfamilies) serve about 1,500 parents and children annually, with 80 to 100 families being served in the core program.
<i>Families in Transition, Family Services Association of Metropolitan Toronto</i>	<p>Core Program</p> <ul style="list-style-type: none"> • Therapeutically-based parallel sessions for children and parents (each parent in separate group) aimed to: <ul style="list-style-type: none"> • reduce parental conflict; • create functional co-parental relationships; • support children’s grieving; and • strengthen parent-child relationships. • No curriculum. Includes some basic information about the divorce/separation process and skill building. Children’s groups may include videos, letters to parents, as well as facilitated discussion. Led by qualified counsellors. • Children’s groups age-based, serving children aged 4-14, and all run on Saturday mornings. • Open to all families. On applying to enter the program, families—including those referred by courts, lawyers and other professionals—are given an in-depth assessment to identify treatment needs and set specific goals. • Each family receives a case manager who follows up with parents and children at the end of the course to identify goals met and new needs. Some families may proceed into mediation, or to preparing or revising parenting plans (or they may already have had mediation). • Program serves high and low conflict families, but families are increasingly high conflict (Freeman, pers. comm.). FIT researchers are currently developing ways to adapt their services for diverse ethno-racial and cultural families. <p>Counselling</p> <ul style="list-style-type: none"> • Following the initial assessment (or the core program), family members may be referred to therapeutic counselling. • Families are directed to different services depending on their ability to tolerate group sessions, rather than on the level of family conflict or other problems facing the family.

Table A.5 Ontario (cont'd)

Type of Program	Program Description and Evaluation
<p><i>One Family, Two Homes</i></p> <p><i>Jewish Child and Family Service</i></p>	<p>Program Description</p> <ul style="list-style-type: none"> • A program for parents and children experiencing divorce and separation that provides information to parents and a venue for children to express their feelings and discuss coping strategies (Gertner, pers. comm.). • A three-week workshop for parents provides information about their children's needs and the impact of their behaviours on their children, as well as legal information about divorce and separation (fourth week for parents with adolescents). Loosely structured parallel group for children allows children to talk about their feelings and discuss coping strategies. May include the video <i>Children in the Middle</i> with activities. • Children's group for children five and older only. • The program was originally developed two years ago because of long waiting lists for the more intensive <i>Picking Up the Pieces</i> and now runs several times a year. Some parents proceed to the more intensive program, or other services, after completing <i>One Family, Two Homes</i>, while others appear to have gotten what they needed. <p>Program Evaluation</p> <p>No evaluation. High satisfaction ratings.</p>
<p><i>Picking Up the Pieces</i></p> <p><i>Jewish Child and Family Service</i></p>	<p>Program Description</p> <ul style="list-style-type: none"> • A therapy-oriented program for parents and children experiencing divorce and separation, aimed primarily to improve communication among parents and children. Not intended for high conflict parents who cannot examine their own behaviour, or families where violence is involved (Gertner, pers. comm.). • Parallel group sessions for parents (separated parents attend different groups) and children (run after school). • Children's groups are age-based (ranges depend on ages of children in the program at the time). • Six weekly sessions, wrap-up meeting with family at the end of six weeks, plus a seventh follow-up six weeks later for parents individually. • Intensive intake assessment (two to three hours) involving interviews with family together, where possible, to see the family dynamic, and individual interviews. • Children's sessions are activity-based. Children are facilitated to express feelings and articulate their needs and interests to parents. Small parents' sessions (seven to ten parents) involve group therapy to help parents grasp how their children are feeling and experiencing events and to leave their own needs aside to focus on their children's. • Counsellors facilitating parent's and children's groups meet regularly to ensure issues raised by children are addressed in parents' groups, and other cross-fertilizations. • Wrap-up meeting consolidates learning. Follow-up appraises the changes parents have been able to make, reinforces goals and behaviours, and helps parents identify further needs, including further services. <p>Program Evaluation</p> <p>High satisfaction ratings. No formal evaluation because of difficulty finding suitable instruments, but internal evaluation to begin shortly.</p> <p>Counselling</p> <p>Parents and children in the program can be linked with individual and family counselling as needed.</p>

Table A.5 Ontario (cont'd)

Type of Program	Program Description and Evaluation
<i>Other Children's Programs</i>	A sprinkling of other children's programs appears to exist in Toronto and other provincial centres.
Other	Counselling <ul style="list-style-type: none">• Other group programs believed to be sprinkled around the province and in Toronto and other metropolitan centres.• Family and individual counselling available in family service agencies and other agencies around the province.• Private therapists and family counsellors available in most parts of the province.

Table A.6 Quebec

Type of Program	Program Description and Evaluation
Court-connected Programs	Province considering reconfiguring the information session on the province-wide mediation services that courts currently provide to separating and divorcing parents. Plan under consideration is to expand the information session to two sessions totalling two to three hours and turn it into more of a parent education session (Tanguay, pers. comm.). It is possible that the reconfigured sessions would include something for children.
<i>Confidences</i> <i>Centres jeunesse de Montréal</i>	<p>Program Description</p> <ul style="list-style-type: none"> • Children’s program for children whose parents are in voluntary mediation, or receiving a psychosocial evaluation (custody assessment). Not linked to the parent education program that is provided. However, is linked where possible with the mediation and custody assessment process (Filion, pers. comm.) and two-thirds of referrals come from mediators (Vallant 1999) • Program aims to: <ul style="list-style-type: none"> • provide a safe space for children to share with other children and express their feelings; • help children tell parents how they feel; • help children explore solutions to their difficulties; and • increase parents’ awareness of children’s needs and wishes. • Children enter the voluntary program only with their parents’ permission. The counsellor running the sessions meets with both parents to make clear she will not appear as an expert witness in court, and will include mediators and custody evaluators in final follow-up meeting where possible. • Four sessions for six to ten or eleven year olds. Small groups of five to eight children. Currently offered only in French. Serves about 55 children a year (seven groups). • Open to all children except those with serious behavioural problems. • Following the children’s sessions, the counsellor/facilitator talks to both parents together, where possible, about their children’s needs and how they can best take their children’s needs into account. Mediators or experts preparing psychosocial evaluations are present at these meetings. The children are sometimes present. • A high demand exists for program, and for a similar program for adolescents. However, resources do not permit more. • A ball-park estimate is that 25 percent of children of mediating parents at Montreal centre use the program.

Table A.6 Quebec (cont'd)

Type of Program	Program Description and Evaluation
	<p>Program Evaluation</p> <ul style="list-style-type: none"> • A survey of 160 parents and 112 children in the program (Vallant 1999) found about one third of the parents felt their children’s sense of security had been increased by seeing other children in the same situation, and nearly as many thought the program helped their children express themselves more easily about the separation. One quarter of the Parents reported their children were calmer, and one-fifth felt their children expressed themselves more readily about the separation. • Sixty-three percent of parents felt the final meeting between parents, child and counsellor helped them understand their children’s needs and feelings better, and 13 percent saw it as an occasion to show their love to their child. • Almost one-half the parents reported their children were enthusiastic at the prospect of participating in the program, while one eighth were apprehensive about the first meeting. • Sixty-eight percent of the children reported being very happy participating in the program, and less than five percent responded negatively. Their most frequent reasons for enjoying it were that it gave them a chance to talk about the separation (12 percent), and to meet other children in the same situation (11 percent). Another 13 percent said they found talking about the separation boring. The activity preferred by 65 percent of the children was to discuss their feelings using dog photos. • Eighty percent of the children felt the program activities (puppet theatre, drawing, talking, watching a video, final meeting with parents) had helped them, with 36 percent saying it had helped them talk about the separation, and 15 percent saying that it had helped them understand the separation. • Over 90 percent of children told their parents very little or nothing of what went on in the group. • Parents most often saw the program as a place where their children could express their feelings (28 percent), and could comprehend the separation (26 percent).
Community Programs	A sprinkling of children’s programs exist, provided by organizations such as Montreal Catholic Counselling and Mediation Centre.
Other	<p>Counselling</p> <p>Individual counselling for children experiencing their parents’ separation or divorce in some centres.</p>

Table A.7 Nova Scotia

Type of Program	Program Description and Evaluation
Court-connected Programs	<ul style="list-style-type: none">• No court programs. A mandatory parent education program exists for parents (Hebert, pers. comm.).• A complementary voluntary program for children has been developed and may be in place in 2001-2002 (Nichols, pers. comm.). The program will be four to six hours long and education-oriented. Goals include helping children understand that their parents will not reconcile and that they are not to blame.
Community Programs	Few to no programs for children adjusting to divorce or separation. Informal or intermittent supports may be offered at some family resource centres (Blanchard, Wenzel, pers. comm.) and have been offered in schools at various points (Nichols, pers. comm.).
Other	Counselling Individual counselling for children experiencing their parents' separation or divorce in some centres.

Table A.8 New Brunswick

Type of Program	Program Description and Evaluation
Court-connected programs	No court programs. Parent education program recently introduced (Guravich, pers. comm.).
Community Programs	<ul style="list-style-type: none"> • Few, if any, regular group programs for children experiencing their parents' separation or divorce (Smith, pers. comm.). Some ad hoc groups for children receiving individual counselling and therapy at Family Services of Fredericton Inc. • Discussions begun about introducing intensive therapy-based program modeled on the former <i>For Kids' Sake</i> program provided until recently by the former Clarke Institute for Psychiatry in Toronto (see Table A.5).
Other	<p>Counselling Family and child counselling for children experiencing their parents' separation or divorce in Fredericton and possibly other centres.</p>

Table A.9 Prince Edward Island

Type of Program	Program Description and Evaluation
Court-connected Programs	<ul style="list-style-type: none">• No court programs. Parent education recently introduced for parents (Bulger, pers. comm.).• No programs for children. Need felt for program (Lightwood, pers. comm.).
Community Programs	Few ongoing programs for children currently (McCann-Beranger, pers. comm.).
Other	Counselling Individual and group counselling programs for families and children at P.E.I.'s three family service centres in Charlottetown and Summerside (Lightwood, McCann-Beranger, pers. comm.).

Table A.10 Newfoundland and Labrador

Type of Program	Program Description and Evaluation
<p>Court-connected Programs <i>Children's Program</i> <i>St. John's, Family Court</i></p>	<p>Program Description</p> <ul style="list-style-type: none"> • Program offered about twice yearly for children experiencing their parents' separation or divorce, aiming to: <ul style="list-style-type: none"> • normalize the experience; • provide an opportunity for children to express their feelings; • help children develop coping strategies; and • familiarize children with the terms around divorce and separation. • Eight weekly sessions of 90 minutes, led by court counsellors with intern support. No parents' program link. • Education and activities for age-based groups of children, including game playing, watching videos (including <i>Children in the Middle</i> and <i>Children: The Experts on Divorce</i>), writing letters to parents about how they feel and identifying their needs. • Open to all families, including those in other court-connected programs. • Program has run off and on—depending on resources—for about 10 years. Does not meet demand (Foster, pers. comm.). <p>Program Evaluation No evaluation.</p>
<p>Community Programs <i>It's Still O.K.</i> <i>Health Care Corporation of St. John's</i></p>	<p>Few or no programs, especially outside St. John's.</p> <p>Program Description</p> <ul style="list-style-type: none"> • Program for children experiencing their parents' separation or divorce aimed to help children identify and deal with their feelings, get a sense of support around, and normalcy of, the experience, understand the experience, bolster the children's self-esteem and ability to cope, and help them understand the court process and role in divorce and separation (Sinclair, pers. comm.). Therapeutically oriented, activity-based small groups of 9 to 12 year olds, led by trained counsellors. Includes sessions with parents before and after the children's course. More activity-based groups for younger children, depending on resources. • Open to all families (often referred by the court). Children tend to be more distressed than average. Children in program may also be in individual therapy at the centre. • Program operating for about four years. <p>Program Evaluation No systematic evaluation. Parents are asked to assess changes after course. Most likely to indicate child is less irritable or aggressive, cries less and can articulate feelings better. Sometimes children become more agitated, as feelings surface.</p>
<p><i>Focus Consultations</i> <i>Health Care Corporation of St. John's</i></p>	<p>Program Description</p> <ul style="list-style-type: none"> • Intensive short-term counselling • Intensive family therapy for parents and children experiencing their parents' separation or divorce. Narrative therapy involving two therapists in hourly weekly sessions over six weeks. Solution focussed. Serves 70 to 80 families annually. <p>Program Evaluation No long-term evaluation but 91 percent of parents completing course judged to need no further interventions.</p>
<p>Other</p>	<p>Counselling Family and individual counselling available in some centres.</p>

Table A.11 Yukon

Type of Program	Program Description and Evaluation
Court-connected and Community Programs	<ul style="list-style-type: none">• No court-connected program (McLeod, pers. comm.).• No established community programs. However, a proposal is under discussion for local community services and counselling agencies to provide an education-based program for 6 to 12 year olds in elementary schools, and involve school counsellors (McLeod, pers. comm.).
Other	Counselling Some family and individual counselling available.

Table A.12 Northwest Territories

Type of Program	Program Description and Evaluation
Court-connected and Community Programs	<ul style="list-style-type: none"> • No court-connected programs for children experiencing their parents' separation or divorce (Laycock, pers. comm.). • No group-based community programs for children experiencing parental separation or divorce who are not in overt distress (Bentley, pers. comm.).
Other	<p>Counselling</p> <ul style="list-style-type: none"> • Most of the children needing intensive supports in the N.W.T. are not receiving them (Bentley, pers. comm.). • Yellowknife Health and Social Services Board, part of the territorial government, provides group and individual therapy to children experiencing difficulties in adjusting to changes in family structure: <ul style="list-style-type: none"> • for children up to age 19 typically experiencing significant behaviour problems, who also may be in child protection; • walk-in clinic, but also referred by child protection services, doctors; • typically solution-focussed, short-term therapy of less than 6-8 sessions. Provided by 2.5 therapists, including psychologists and mental health professional; • more than 300 children served annually; and • no evaluation since provincial government took over this responsibility in 2000. • Private therapists in Yellowknife.

Table A.13 Nunavut

Type of Program	Program Description and Evaluation
Court-connected and Community Programs	No programs available (Berzins, pers. comm.).
Other	Counselling Government social workers posted in communities provide some family and individual counselling.

APPENDIX B

**CANADIAN CHILDREN'S INCLUSION IN CUSTODY AND ACCESS
PROCEEDINGS**

Table B.1 British Columbia

Proceedings and Services	Children’s Inclusion
<i>Information Counsellors</i>	Children not directly involved.
<i>Voluntary Conciliation Mediation</i>	<ul style="list-style-type: none"> • Children are rarely directly involved in the conciliation provided by family justice centres around the province (Morgan, pers. comm.). • Occasionally older children (12+) are interviewed separately by conciliators. Guidelines require conciliators discuss the interview with the parents beforehand, and clarify the purpose of meeting with the child at the outset of the interview. • The ministry has begun to explore ways to increase children’s involvement in court-provided conciliation or mediation. • Children may be more frequently involved in private custody and access mediation, but it is not common.
<i>Custody and access reports</i>	<p><i>Comprehensive Reports</i></p> <ul style="list-style-type: none"> • Involve interviews with parents, collateral interviews with officials familiar with child and family, interviews with children and each parent separately at home, in the playground, etc., interviews with child and siblings, and interviews with each child alone (observation of preschoolers). Adolescents are asked for feedback, but younger children’s wishes are not directly solicited (Morgan, pers. comm.). • Children not interviewed in cases where mental health expert judges they risk being harmed from excessive interviewing. In those cases assessors use existing expert reports. • Assessment directly addresses each of the criteria provided by the legislation to determine the child’s best interests. Brief account of marital history and plans for future. • A 6-8 month waiting list for court-provided (free) comprehensive reports. Given the backlog in preparing reports, reports now most frequently ordered for children with high conflict parents, enmeshed in litigation, where one or more parents may be self-litigating, the child’s health or safety is feared at risk, or there has been prolonged access denial. <p><i>Views of the Children Reports</i></p> <ul style="list-style-type: none"> • Short reports that assess and present teenagers’ wishes in specific access disputes. <p><i>Focused Assessments</i></p> <ul style="list-style-type: none"> • Assessments focused on specific access issues such as overnight visits, and bracket or exclude other ongoing conflicts. <p>Children interviewed, as well as other relevant parties.</p>

Table B.2 Alberta

Proceedings and Services	Children's Inclusion
<i>Information Counsellors</i>	Provide information to parents initiating legal custody and access proceedings. Children not involved.
<i>Voluntary Mediation</i>	Children not normally involved in court-connected voluntary mediation available to families with custody and access disputes. Older children (15-16) may sometimes be present with parents, or seen separately by mediator (Delanghe, pers. comm.).
<i>Court Assessments / Home Studies</i>	<ul style="list-style-type: none"> • Social workers in provincial court, and social workers and/or psychologists in Queen's Bench, provide standard assessments involving home visits with each parent and child to observe family, and further interviews with the children if needed (or observation of young children at activities), and with parents. • Some mini-assessments for older children, where specific issues are in dispute. May be court-ordered or initiated by parents or their lawyers. Typically are not used by families felt to be on their way to final hearing, since assessors prefer not to present these "snapshots" in court, or appear as expert witnesses to present them. • Parents liable for costs of assessments, although they may be eligible for some subsidy if they have participated in court-connected mediation.
<i>Amicus Curaie</i>	No longer provided to children and youth. Court can appoint counsel for the child; this occurs in exceptional circumstances.

Table B.3 Saskatchewan

Proceedings and Services	Children's Inclusion
<i>Voluntary Mediation</i>	Children are rarely involved in court-connected mediation. Similar situation applies in private mediation (Acton, pers. comm.). Where children are involved, they are most likely to be older.
<i>Court Assessments</i>	<ul style="list-style-type: none">• Provide standard assessments typically involving home visit with each parent and child, to observe family, and further interviews with children if needed (or observation of very young children at activities), and with parents.• Recent sharp increase in use of focussed/mini-assessments for children 12 and older, which focus on resolution of specific issues, and in which only children are interviewed (may be collateral interviews as well) (Behr, pers. comm.). Especially likely to occur in application to vary custody and access orders, and with older children. (Saskatchewan judges follow assessments' recommendations in about 90 percent of cases.)

Table B.4 Manitoba

Proceedings and Services	Children's Inclusion
<i>Voluntary Mediation</i>	Children present at mediation (where parents request it and mediator judges it suitable), or mediators meet separately with the child to assess the child's best interests, in less than five percent of cases (estimate) (Bewski, pers. comm.).
<i>Court Assessments</i>	<ul style="list-style-type: none"> • Provide standard comprehensive assessments, typically including home visits with each parent and the child by the assessor, to observe family, and meetings with parents. Children's preferences not solicited, but reported if offered by the child. The assessor is not bound by these preferences in assessing the child's best interests. • The court is increasing its use of focussed assessments, in which children may play a more direct role in the assessment.
<i>Amicus Curaie</i>	<ul style="list-style-type: none"> • Service eliminated March 2001. • More than 40 older children a year used the support of <i>amicus curaie</i> attorneys in recent years, partly because of long waiting lists for assessments. Court officials are planning to make more mediators and evaluators available to replace this service (Bewski, pers. comm.).

Table B.5 Ontario

Proceedings and Services	Children’s Inclusion
<i>Information Services</i>	Children not believed to be included (Dwyer-Hunte, pers. comm.).
<i>Voluntary Mediation</i>	Children included in voluntary mediation programs only sometimes. Typically older children (Dwyer-Hunte, pers. comm.).
<p><i>Custody Assessments/Social Work Reports</i></p> <p><i>Social worker-lawyer teams</i></p> <p><i>Office of the Children’s Lawyer</i></p>	<ul style="list-style-type: none"> • About one third of the Office of the Children’s Lawyer’s 3000-3500 cases—typically high conflict, chronic litigation cases—receive family assessments (social work reports). Children are always interviewed, and their preferences will be included in the report if it is considered in the child’s best interests (Moyal, Martin and McTavish, pers. comm.). • Assessments may include interviews at child’s home. Children may be observed with family members and may be interviewed privately, if appropriate (http://www.attorneygeneral.jus.gov.on.ca). Children’s interviews outside the home done in “comfortable environment,” and may include play, drawing or stories to elicit children’s feelings. Children not asked to choose between parents. Reports are prepared by social workers whose mandate is to serve as an advocate for the children’s best interests. • While preparing the report, social workers also attempt to mediate parents’ dispute. Reports are presented to court with recommendations where no agreement reached. • Another third of the Office’s families receive combined assessment and legal guidance and representation through the Office’s social worker-lawyer team program. The social worker-lawyer teams integrate information about the family dynamics and parenting capacity, etc., explored in the assessment, into legal guidance and suasion provided by the children’s representative on the team. Conversely the legal options and guidance are used to inform the social workers efforts to facilitate agreement in the child’s best interest before the case proceeds to court. <p>10-15 percent of Office’s assessments are focussed assessments.</p>

Table B.6 Quebec

Proceedings and Services	Children's Inclusion
<i>Voluntary Mediation</i>	<ul style="list-style-type: none">• Children not usually included in mediation usually. Children, usually older, sometimes involved (Canozzi, Tanguay, pers. comm.). Where children are involved, mediators involve them in different ways, depending on family and mediator's approach (Canozzi, pers. comm.).• Quebec currently considering regulatory changes to its free mediation services that will include meetings between mediators and the children alone. At present the free service officially only covers meetings between mediators and parents, or parents and children (Tanguay, pers. comm.).
<i>Psycho-social Evaluations (family assessments)</i>	Comprehensive assessments involving interviews with parents. Also interviews with children, either alone or with their parents (Canozzi, pers. comm.).

Table B.7 Nova Scotia

Proceedings and Services	Children's Inclusion
<i>Mediation or Conciliation</i>	Children not usually included in court-based mediation, although older children may sometimes be, where parents want to involve their children and mediators consider this beneficial (Hebert, pers. comm.).
<i>Custody Assessments</i>	Custody assessments, prepared by social workers or psychologists may include interviews with children alone, depending on age and circumstances. Scope of the assessment varies according to assessor's judgement (Nichols, pers. comm.).
<i>Family Group Conferencing</i>	None at present, but under consideration.

Table B.8 New Brunswick

Proceedings and Services	Children's Inclusion
<i>Mediation or Conciliation</i>	Children may be included in mediation provided through the government's domestic legal aid services, depending on individual mediators. However, most avoid including children, especially younger children (Guravich, pers. comm.).
<i>Custody Assessments</i>	Custody assessments contracted out to private assessors and the provincial department of family and community services. Assessors always interview children in some capacity, often meeting privately with children, but assessment practices vary significantly (Guravich, pers. comm.).

Table B.9 Prince Edward Island

Proceedings and Services	Children's Inclusion
<i>Voluntary Mediation</i>	Children rarely included in mediation (Bulger, pers. comm.).
<i>Home Studies (court assessments)</i>	Standard comprehensive assessments, involving meetings with parents, meetings with parents and children, and meetings with children at school (Bulger, pers. comm.). In transition to doing more mini-assessments (1-2 completed) (Bulger, pers. comm.). Expect children will be as involved in these as in standard comprehensive assessments.

Table B.10 Newfoundland and Labrador

Proceedings and Services	Children's Inclusion
<i>Voluntary Mediation</i>	Children not involved in mediation. Mediator may meet with children at the end of the mediation to help explain the outcomes to them (Foster, pers. comm.).
<i>Corner Brook integrated court services pilot program.</i>	Short term counselling for children, or children and parents, in families involved in custody and access disputes, including access enforcement disputes (Reynolds, pers. comm.).
<i>Court Assessments</i>	<ul style="list-style-type: none">• Standard comprehensive court assessments provided, that include interviews with parents, parents and children, and collateral interviews with school and other officials.• Mini-assessments are also conducted in some cases. These may involve children meeting alone with the assessor for their perspective on the specific issues on which the assessments focus, or meetings with parents and children together (Foster, pers. comm.).

Table B.11 Yukon

Proceedings and Services	Children's Inclusion
<i>Mediation or Conciliation</i>	No court-based mediation or conciliation services available at present (McLeod, pers. comm.).
<i>Custody Assessments</i>	Few, if any, assessments completed, since very few cases reach court hearing.

Table B.12 Northwest Territories

Proceedings and Services	Children's Inclusion
<i>Mediation or Conciliation</i>	Little mediation or conciliation available (Laycock, pers. comm.).
<i>Custody Assessments</i>	Few, if any, assessments completed, since very few cases reach court hearing.

Table B.13 Nunavut

Proceedings and Services	Children's Inclusion
<i>Mediation or Conciliation</i>	None yet available. Program planned but in program model not yet decided (Berzins, pers. comm).
<i>Custody Assessments</i>	Few, if any, assessments completed, since very few cases reach court hearing.

APPENDIX C

AMERICAN PROGRAMS TO SUPPORT CHILDREN EXPERIENCING THEIR PARENTS' SEPARATION OR DIVORCE

Program	Program Description and Evaluation
<p><i>Children in the Middle</i></p> <p>Center for Divorce Education, Athens, Ohio</p>	<p>Program Description</p> <ul style="list-style-type: none"> • Comprehensive education program for children experiencing their parents' separation or divorce, often used in conjunction with parent education program using parent version of the program (http://www.divorce-education.com). • Materials include videos and booklets for parents and children, materials for service providers, and materials for judges. • The video-based children's component of the program aims to teach children how to respond effectively when caught in the middle of disputes between separated/divorced parents. The children's program also includes sections on why parents divorce, children's feelings and fears, myths and truths, and coping skills (how to get out of the middle, asking for help, using self talk, changing thoughts, etc., and getting on with their lives (Arbuthnot and Gordon 1996). • Children's program designed to reinforce and be reinforced by parents' version (Arbuthnot and Gordon 1996). • Children's program had been used by over 500 service providers North America by 1995 (Arbuthnot and Gordon 1996). • Program example: <i>Children in the Middle</i>, Tidewater, Virginia (http://www.jfshamptonroads.org/children/middle.html). <ul style="list-style-type: none"> • Children's program run in conjunction with parent education program by family service agency. • Children's program consists in one-hour age-based group sessions run weekly for four weeks. Groups share experiences and work on feelings using video, activities and discussion. <p>Program Evaluation</p> <ul style="list-style-type: none"> • In a four-week follow-up with 33 fourth, fifth, and sixth graders, children reported the frequency and stress of situation in which they felt caught in the middle. Children in the program reported experiencing significantly less stress than a control group who watched the non-skills oriented divorce video <i>When Mom and Dad Break Up</i>. • Improvements were clinically significant for 50 percent of the children (Kearnes et al. 1991).

Program	Program Description and Evaluation
<p data-bbox="203 233 446 289"><i>Families in Transition Program</i></p> <p data-bbox="203 321 425 348"><i>Louisville, Kentucky</i></p>	<p data-bbox="565 233 808 260">Program Description</p> <ul style="list-style-type: none"> <li data-bbox="565 266 1401 352">• Court-connected program for children with divorcing or separating parents. Mandatory children’s program run parallel to mandatory parent education program [Brown et al., 1994; http://www.louisville.edu/kent/community/fit). <li data-bbox="565 359 1430 548">• Children’s program goals (based on Wallerstein 1983’s six tasks for children at separation and divorce [see Chapter 1]): <ul style="list-style-type: none"> <li data-bbox="581 422 1154 449">• help children identify and understand their feelings; <li data-bbox="581 455 1268 483">• reduce feelings of isolation and misconceptions about divorce; <li data-bbox="581 489 1357 516">• increase children’s awareness of how divorce affects their parents; and <li data-bbox="581 522 1097 550">• increase appropriate ways to respond to anger. <li data-bbox="565 556 1446 642">• Parent’s program goal: to develop parental competence by teaching skills to handle children’s divorce-related concerns, co-parental relationships, and parent-child relationships. <li data-bbox="565 648 1438 705">• Mandatory attendance for parents and children in all families with children ages eight to 16 who petition for divorce with Jefferson County Family Court. <li data-bbox="565 711 1398 798">• Two three-hour or 2.5-hour small-group sessions over two or three weeks. Optional additional classes and counselling. Children’s group led by trained facilitators, and largely activity-based. <li data-bbox="565 804 1308 831">• Group facilitators receive five hours training to deliver the program. <li data-bbox="565 837 1446 903">• One parent and child attend separate parallel sessions with other parent attending separately. Curriculum-based program. <li data-bbox="565 909 1390 974">• Available in easy-to-reach, safe community settings where ongoing clinical services available. Fees by sliding scale. <p data-bbox="565 980 800 1008">Program Evaluation</p> <ul style="list-style-type: none"> <li data-bbox="565 1014 1422 1079">• High client satisfaction found: ninety-seven percent of participants providing feedback on the program said they found it very or somewhat helpful. Almost two-thirds were interested in follow-up sessions (Brown et al. 1994). <li data-bbox="565 1085 1455 1205">• Preliminary assessment of parents and children—using pre- and post-test Divorce Adjustment Inventory (one measure for parents, one for children)—found “those who have completed the FIT program are adjusting satisfactorily to the divorce.” No control group. <li data-bbox="565 1211 1438 1276">• Less than 10 percent of families completing the program return to court with child-related issues (Administrative Office of the Courts, cited in Di Bias 1996).

Program	Program Description and Evaluation
<p><i>Kids First (1998+)</i> <i>(They're Still Our Children 1988-1998)</i></p> <p><i>Hawaii (First, second, third, and fifth circuit courts)</i></p>	<p>Program Description</p> <ul style="list-style-type: none"> • A court-based educational program for divorcing parents and their children aged six or older. Mandatory children's and parents' program for families within six weeks of filing a divorce complaint, and for families litigating custody and access disputes. • Children's program aimed to: <ul style="list-style-type: none"> • demystify the court process, • let children know divorce is not their fault, and that being angry, scared, and wanting the family back are common feelings; • get children to talk about their feelings; and • reassure children that they still have both parents, and a family. • One 2.5 hour session. Curriculum-based program. Children and parents initially meet together in a courtroom to learn about the legal process and watch the video <i>Divorce and Other Monsters</i>. Separate children's group—led by a judge, children's coordinator, and community volunteers—tours the courtroom first. Children then role-play divorce cases, are encouraged to explore their feelings about the divorce, and draft letters to their parents singly and together. Parents and children reunite to hear children's group letter read to parents (Di Bias 1996). • The name of the program was changed from <i>They're Still Our Children</i> to <i>Kids First</i> in 1998, when the programs run in various circuits were merged administratively (McNish, pers. comm.). The program format does not appear to have changed. <p>Program Evaluation</p> <p>Exit evaluations show more than 95 percent of participants are glad they attended and felt that program worthwhile (Anaya, pers. comm.).</p>
<p><i>Focus on Children In Separation (FOCIS)</i></p> <p><i>Jackson County, Missouri (16th Circuit Court)</i></p>	<p>Program Description</p> <ul style="list-style-type: none"> • Mandatory court-connected program for parents and children aged 5-17 in separating or divorcing families, or families in custody and access disputes. Parents' program run parallel to children's programs (Glenn 1998; http://www.family-court.org/res/focis.htm). • Education and awareness program. Children's (age-based) program goals to help children: <ul style="list-style-type: none"> • deal with grief reactions to divorce (age-appropriate levels); • not blame themselves for the divorce; • identify and express their own reactions to the events; • talk to parents about their concerns (providing children with techniques); and • understand basic legal terms. • Children and adolescent groups include some lecturing, videos, discussion, and the children's class creates a newsletter for parents. Parents' activities include lecture, discussion, videos and take-home materials. Parents' and children's groups meet separately. • Two two-hour classes. • \$30 fee per parent per class, with low-income subsidy. <p>Program Evaluation</p> <ul style="list-style-type: none"> • Initial evaluation of 400 (adult) participants in 1996 indicated need to expand initial program from two to four hours, and to create a separate class for people applying to modify an existing decree. Overall positive response (Glenn 1998). • Attempt to provide programs in a wide number of locations blamed for initial poor attendance and high level of class cancellations.

Program	Program Description and Evaluation
<p><i>Rainbows</i></p>	<p>Program Description</p> <p>Grief recovery program to provide a bridge to emotional healing for children, adolescents, and adults confronting death, divorce and other painful family transitions. Weaves grief education with format and objectives of self-help groups to strengthen the children's:</p> <ul style="list-style-type: none"> • coping skills; • self-esteem; and • family and personal adjustment. • ability to communicate feelings and ideas about divorce and parental loss (Kramer and Laumann 2000). • Lay-led peer-support sessions for children, led by trained and compassionate adults—sometimes guidance counsellors in schools, sometimes social workers, teachers and parent volunteers (http://www.rainbows.org). • Small groups of 3-5 same-aged children. Older children receive empathetic listening and practice it with each other, use games, journal keeping and other activities to accept their feelings of loss as normal. • Age-based programs (4-5, 7-8, 9-11 and 12-14 years old). Also Spectrum (adolescents), Kaleidoscope (college age), and Sunbeams (age 3-4) in development. Curriculum-based program with both secular and religious versions. • Twelve-week program of weekly meetings plus two special multi-group days (3 to 4 hours) after sixth and final sessions. • Open to all children, including children whose parents divorced or separated several years before. Sponsored by faith and community agencies and typically run in schools, and sometimes in churches or agencies. May be offered by schools as part of school-based social services. Volunteer managed and /or financed by sponsoring organization. • No fees. <p>Program Evaluation</p> <ul style="list-style-type: none"> • High client satisfaction found: 80 percent of 97 fourth to sixth graders in the secular Level III program at 28 school sites in central Illinois and greater Chicago reported being happy with the program and felt it offered a safe place, helped them understand their feelings, and taught them new ways to solve problems. About 60 percent reported feeling less alone after the program, and 72 percent felt more cared for. Three quarters or more of parents felt children were blaming themselves less, were asking for help more, were more communicative and talked about feelings more, had a better understanding of divorce, and were more accepting of divorce and more optimistic (Kramer and Laumann 2000). • Applying standard pre and post-test measures to program participants and to children with divorced parents in a control group (parent, facilitator and child reports) found: <ul style="list-style-type: none"> • no improvement for children's perceptions of their well-being, although parents of control group children in high conflict families perceived decline during course of the program (well-being measures included anxiety, peer social skills, rule compliance and acting out, and school interest); • no change in children's perceptions of their adjustment; • no change in children's perceptions of their warm or hostile relationships with the parent they spend most time with; and • no change in children's perceptions of their coping skills, except Positive Reappraisal—looking on the brighter side—where children in high conflict families improved; other coping skills tested were seeking support from peers, avoiding strategies that reflect hopeless or blaming attitudes, and seeking support from other adults (Kramer and Laumann 2000).

Program	Program Description and Evaluation
	<ul style="list-style-type: none"> • Many of the children in the program had experienced their parents' divorce or separation up to five years earlier. The pre- and post-tests were conducted at the beginning and end of the program. Attrition during the study was 50 percent.
<p><i>Divorce Support Groups for Children and Adolescents</i></p> <p><i>The Kids First Center Portland, Maine</i></p>	<p>Program Description</p> <ul style="list-style-type: none"> • Discussion-centred support groups for children and adolescents experiencing separation and divorce (http://www.kidsfirstcenter.org). • Separate age-based groups for children 6-18, focussing on the developmental, emotional, and relational needs faced by children of divorce or separation. • Six weekly sessions of just over an hour (6-8 and 9-11 year olds) or 90 minutes (12-14 and 15-18 year olds). • Groups explore feelings of those whose parents divorce or separate, identify coping strategies for those feeling abandoned or conflicted, and stress that children can cope with the change of divorce. • Fees: \$60.00. <p>Program Evaluation None found.</p>
<p><i>Children of Divorce Intervention Program (CODIP)</i></p> <p><i>Children's Institute Inc. Formerly Primary Mental Health Project Inc. (PMHP), Rochester, New York</i></p>	<p>Program Description</p> <ul style="list-style-type: none"> • Established preventive mental health program for school-age children aged 5 to 12 (kindergarten to eighth grade), carried out in about 50 schools in the Rochester, N.Y., area. Pilot programs included two parent components: mother and child, and mother alone (http://www.pmhp.org/programs/programs.htm#codip; Pedro-Carroll et al. 1985; Pedro-Carroll et al. 1986). • Program goals to help children cope with divorce by: <ul style="list-style-type: none"> • providing a supportive group environment for children to share common feelings; • encouraging children to express divorce-related feelings; • clarifying misconceptions about divorce; • improving children's coping skills, such as controlling anger, reducing blaming, getting along with other children; and • improving self-esteem and feelings of competence. • Initial pilot (1985) for 9-12 year olds focused in equal measure on expressing feelings, solving personal problems—such as learning how to express feelings and distinguish the problems they could not solve, and did not cause—and dealing with anger (Pedro-Carroll et al. 1985). A second pilot for this group expanded the self-esteem component (Pedro-Carroll et al. 1986), and later modifications expanded the program to other age groups and developed a program for low income, urban 9-12 year olds (Alpert-Gillis et al. 1989). The program was adapted again for trial with fourth-to sixth graders in a low income, urban setting (Pedro-Carroll et al. 1992, cited in program description (http://www.childrensinstitute.net). Procedures manuals currently available for children up to 7th and 8th grade. • Groups led—in pilot studies at least—by one mental health professional or graduate trainee and one experienced paraprofessional, working in twos.

Program	Program Description and Evaluation
	<p data-bbox="565 233 797 260">Program Evaluation</p> <ul style="list-style-type: none"> <li data-bbox="565 266 1425 384">• Pedro-Carroll and Cowen, 1985: Pre- and post-test study of 75 mostly white middle-class children two weeks after program ended found mostly positive outcomes for children, compared to another group of children of divorce not in the program. <li data-bbox="565 390 1425 575">• Parents, teachers and program leaders reported children to be: <ul style="list-style-type: none"> <li data-bbox="602 422 1260 449">• less shy or anxious at school, with fewer learning problems; <li data-bbox="602 455 1417 512">• more competent, with less frustration, more sociable, more compliant with rules, more adaptive assertiveness; <li data-bbox="602 518 857 546">• less self-blaming; and <li data-bbox="602 552 841 579">• less anxious overall. <li data-bbox="565 585 1373 703">• Children reported: <ul style="list-style-type: none"> <li data-bbox="602 617 1268 644">• no difference on perceived competence and self-esteem; and <li data-bbox="602 651 1373 703">• less anxiety (and less anxiety than control children), less negative self-attitudes and perceptions about the divorce. <li data-bbox="565 709 1354 766">• While adult reports may have been influenced by common positive expectancies, the children's reports indicated their responses were not. <li data-bbox="565 772 1243 800">• Children's parents had been separated an average two years. <li data-bbox="565 806 1430 890">• Pedro-Carroll et al., 1986: Replication pre- and post-test study of 54 mostly white middle-class children also found positive outcomes, compared to another group of children in intact families. <li data-bbox="565 896 1395 953">• Children in program scored as less well adjusted than the children in other group during pre-test, except in the children's perception of control. <li data-bbox="565 959 1403 1016">• Parents, teachers and program leaders again reported children less anxious, more competent, less self-blaming and with fewer problems learning. <li data-bbox="565 1022 1175 1050">• Children again overwhelmingly reported less anxiety. <li data-bbox="565 1056 1455 1083">• Children in the program caught up to control group children on many measures. <li data-bbox="565 1089 1276 1117">• Children's parents had been separated an average of four years. <li data-bbox="565 1123 1455 1207">• The researchers state that little is known of the psychometric properties of some of the study's key measures. (Pedro-Carroll and Cowen 1985). No behavioural measures were used. <li data-bbox="565 1213 1455 1297">• Pedro-Carroll et al., 1999: A follow-up two years later of CODIP participants in an earlier evaluation found CODIP children still had significantly greater gains in adjustment than divorced children in the control group. <li data-bbox="565 1304 1455 1360">• Children in the control group had higher anxiety than either CODIP children or children in non-divorced families. <li data-bbox="565 1367 1430 1484">• Parents of CODIP children reported increases in their children's coping skills and ability to handle effectively divorce-related concerns. Divorce control children had higher rates of school tardiness and more frequent visits to the school nurse. <li data-bbox="565 1491 1438 1608">• Parents also reported their children had experienced multiple or other benefits including increased ability to talk about their feelings, less anxiety, self-blame and somatic symptoms, and increased self-confidence, problem-solving abilities and coping skills. <li data-bbox="565 1614 1446 1703">• Children were measured using the Teacher Child Rating Scale, Parent Evaluation Form, Children's Family Adjustment Scale, the State-Trait Anxiety Inventory for Children, and a telephone interview of custodial parents.

Program	Program Description and Evaluation
<p><i>Rollercoasters</i></p> <p><i>Families First</i> <i>Atlanta, Georgia</i></p>	<p>Program Description</p> <ul style="list-style-type: none"> • Program of Families First of Atlanta to help children facing parents' separation, divorce, remarriage or death to: <ul style="list-style-type: none"> • understand their up-and-down feelings; • resolve self-blame and other myths; • manage anger; • develop new coping strategies; and • learn to avoid being put in the middle of parent conflicts. <p>(Based on Wallerstein and Kelly, 1980's six divorce-related coping tasks (Fischer, 1997)).</p> <ul style="list-style-type: none"> • Groups of 6-8 children led by experienced counselling professionals (largely school counsellors) in which children raise questions, and the group process allows them to talk about their feelings and understand them. Activities-based (Fischer, 1997; http://www.familiesfirst.org). A total of 51 children participated. • Primary group for children ages 5-8, intermediate group for ages 9 to 12. • Curriculum-based. <p>Eight weekly meetings of nearly an hour each. Located primarily in schools (counsellor's office) during school day.</p> <p>Program Evaluation</p> <ul style="list-style-type: none"> • Parents' pre- and post-program surveys show few parents felt prior to the program that their children were experiencing difficulty communicating about the divorce, though more felt the children were acting out, had low self-esteem, or were unwilling to express their feelings. About 45 percent of parents reported improvements in acting out and communication after the program, and two-thirds felt the child's willingness to express feelings had improved. Overall, 85 percent of parents reported improvement on some measure (Fischer 1997). Non-respondents to the post-program survey (30 percent) were mostly fathers. • Children who were reported more communicative before the program were most likely to improve on that score by the end of the program. Children who expressed feelings less, had lower self-esteem or acted out more than other children before the program improved the most on these dimensions following the program. • Most parents said they would recommend the course. • Children's teachers' pre- and post-program assessment (using Behaviour Problems Index) showed relatively few children had behavioural problems at school before the program (about 20 percent) and children showed a non-significant improvement after the course (Fischer 1997). • A low sample size and wide variation among sites and children at the sites.

Program	Program Description and Evaluation
<p><i>Kids' Turn</i></p> <p><i>San Francisco, California</i></p>	<p>Program Description</p> <ul style="list-style-type: none"> • Community program for children with separating or divorcing parents, linked with concurrent parents' program, run on schools and community agencies. Families may be referred to, or self-refer to, the program. (Bolen 1993; http://www.kidsturn.org). • Children's programs aim to: <ul style="list-style-type: none"> • demystify and de-stigmatize the separation process; • provide a safe place for children and parents to discuss their thoughts and feelings about their experience; • provide information to parents and children about other services in the community; and • provide children and parents with communication and problem-solving skills to help them through the separation process (Bolen 1993; Di Bias 1996; Shepard 1998). • Parents program aims to teach parents not to put children in the middle, to improve communication and family structure, to build children's self-esteem, and to deal with the other parent. • Parents and children attend separate concurrent groups (two parent groups run to allow both parents to attend separately). Parents and children join in potluck supper at end of the course. • Children's small age-based groups led by pairs of qualified teachers and mental health professionals. Parents' groups led by mental health professionals. • Children's groups activities-based, and include watching <i>Divorce and Other Monsters</i> video, drawing, puppets, visits by family court judge, writing newsletter to parents, role-play. Six weekly 90-minute sessions. • Small fees, waived on request. Plans to franchise program beyond San Francisco area (Bolen 1993). <p>Program Evaluation</p> <ul style="list-style-type: none"> • Parents and older children participating were overwhelmingly positive in exit evaluations. Graduates most likely to cite support, increased understanding of separation/divorce process, greater optimism, and better parent-child and parent-parent communication as program benefits (Bolen 1993). • Program seems most effective when both parents participate (Bolen 1993).

Program	Program Description and Evaluation
<p><i>Kids Koping with Divorce</i></p> <p><i>Good News Community, Grand Rapids, Michigan</i></p>	<p>Program Description</p> <ul style="list-style-type: none"> • Expressive program to help children discuss feelings about the divorce, to understand divorce, and to learn better ways to cope with it (http://www.goodnewscommunity.org/kidskop.htm; Blaisure and Geasler, 2000). Linked with parents' program. • Children and parents meet in concurrent groups (two parent groups run to allow both parents to attend separately). Parents, staff, and children share a meal together at the outset of the eight week, eight meeting program. • Children's groups run by trained facilitator under supervision of a professional family and children's therapist. Adults confer with a social worker. • Children's group activities based, including video lessons, playing games, discussing feelings, using puppets, drawings and role-play. <p>Program Evaluation</p> <p>None found.</p>
<p><i>Children's Support Program</i></p> <p><i>Marriage Council of Philadelphia</i></p>	<p>Program Description</p> <ul style="list-style-type: none"> • Program to help children discuss feelings about the divorce, understand divorce, and express their feelings, especially to parents (citation in Davis et al. 1997). • Parent and children's groups meet in concurrent support groups. Parents attend at least one children's group session as a participant. All the children in the family participate in the children's programs. • Group leaders may also contact other mental health professionals, lawyers, teachers and clergy, etc., who may be helping the family, if parents agree. • Sessions run for up to four months. Children can attend more than one group series and can thus be followed for as long as a year. <p>Program Evaluation</p> <ul style="list-style-type: none"> • Parents report more frequent open discussions about the divorce with their children than before the program, as well as fewer angry exchanges with their children over household matters, with exchanges less intense (citation in Davis et al. 1997). • Parents also report their children are more willing to talk about the divorce with peers and significant adults outside the family. • Non-custodial parents report increased comfort and greater candor from their children about past and present dissatisfactions and fears of abandonment.
<p><i>Group Mediation Model of Family Court Service</i></p> <p><i>Alameda County, California</i></p>	<p>Program Description</p> <ul style="list-style-type: none"> • Court-based program for parents and children in custody and access disputes, to provide therapeutic emotional help children caught in the middle, and encourage parents to comply with existing court orders and reduce ongoing conflict (Schepard 1998). • Eligible participants must have failed twice at mediation, and children must appear to be suffering. Screened by court employees, and about one-half attending by court order. • Eight 90-minute weekly sessions. • Separate parents' and children's sessions for first half of course, with fifth session a joint one with parents, children and counsellors. Parents' sessions include therapeutic emotional help, which later segue into mediation. • Joint sessions led by mixed-gender group counsellors <p>Program Evaluation</p> <p>Nine-month follow-up showed men and women in the program were substantially more cooperative, expressed less disagreement with each other, and were more likely to resolve the disputed custody issues with their ex-partner than a control group of similarly litigious parents. Domestic violence diminished to negligible levels (Johnston 1997, cited in Schepard, 1998).</p>

APPENDIX D
LIST OF INFORMANTS

A. COMMUNITY PROVIDERS AND PROGRAM EXPERTS

Brenda Bacon
School of Social Work
University of Manitoba.
Baconbl@ms.umanitoba.ca

Jim Bentley
Director, Community and Family Services
Yellowknife Health and Social Services Board
Yellowknife
(867) 920-4846

Carol Bertram
Director of Development
Rainbows
Barrie, Ont.
(705) 726-7407

Yvonne Blanchard
Executive Director
Nova Scotia Council for the Family
Halifax
(902) 422-1316

Bev Digout, Co-ordinator
Parenting Education Saskatchewan
214 - 510 Cynthia Street
Saskatoon, Saskatchewan
famserv@sk.sympatico.ca
(306) 934-2095

Rhonda Freeman
Families in Transition
Family Service Association of Metropolitan Toronto
(416) 595-9618

Elinor Gertner
Program Director
Jewish Child and Family Service (northern location)
Toronto
(905) 882-2331 ext. 232

Miriam Grassby
Miriam Grassby et Associés
Suite 1750
770 Sherbrooke St. W.
Montreal, QC
H3A 1G1
(514) 844-1550

Eric Hood
Division Head and Senior Psychiatrist
Toronto Family Court Clinic
(416) 595-6000 ext. 4994

Edward Kruk
School of Social Work and Family Studies
University of British Columbia
(604) 822-2383

Greg McCann-Beranger
Director
Community and Family Service of P.E.I.
Charlottetown
(902) 892-2441

Brad McKenzie
School of Social Work
University of Manitoba
417 Tier Building
(204) 474-8767
mcknzie@ms.umanitoba.ca

Steve Rauh
Manager
Giving Children Hope Program
The Family Centre of Winnipeg
Winnipeg
(204) 947-1401

Kathy Sinclair
Family Team Leader for Family Team
Community Mental Health Division
Child Health Program
Healthcare Corp. of St. John's,
Newfoundland and Labrador
(709) 778-4925

Anne Smith
Executive Director
Family Services of Fredericton Inc.
Fredericton
New Brunswick
(506) 458-8211

Linda Wentzell
Regional Prevention Coordinator
Department of Community Services
Nova Scotia
(902) 424-3529

B. GOVERNMENT REPRESENTATIVES

British Columbia

Shauna Morgan
Program Analyst
Family Justice Services
Attorney-General Department
(250) 356-7521

Alberta

Edith Delanghe
Solicitor
Court Services
Alberta Justice
(780) 427-4993

Saskatchewan

Ken Acton
Director
Mediation Services
Saskatchewan Justice
(306) 787-5749

Robbi Behr
Program Manager
Saskatchewan Justice Family Law Support Services
(306) 787-9417

Manitoba

Ron Bewski
Acting Director of Family Conciliation
Manitoba Justice Department
14th Floor
405 Broadway
Winnipeg R3C 3L6
204 945 7224

Ontario

Michelle Dwyer-Hunte
Coordinator
Family Mediation Services
Ontario Attorney General
(416) 326-0176

Lorraine Martin
Director of Counselling
Office of the Children's Lawyer
Toronto
(416) 314-8066

Wilson McTavish
Children's Lawyer
Attorney General
(416) 314-8011

Dena Moyal
Legal Director,
Personal Rights,
Office of the Children's Lawyer
Toronto
(416) 314-8098

Quebec

Daniel Canozzi
Staff Mediator
Mediation Services (Les Centres jeunesse de Montréal)
(514) 393-2286
(514) 593-3974 (main number)

Lorraine Filion
Director
Mediation Services (Les Centres jeunesse de Montréal)
(514) 393-2286
(514) 593-3974 (main number)

Pierre Tanguay
Special Registrar's Office
Ministère de la Justice
(418) 644-7706

Nova Scotia

Cheryl Hebert
Consultant, mediation ADR
Court Services Division
Department of Justice
(902) 424-2887

Karen Nichols
Program Coordinator
Family Court Division
Supreme Court of Nova Scotia
(902) 424-2616

Prince Edward Island

Frank Bulger
Family Court Counsellor
Family Court and Probation Services
Office of the Attorney General
(902) 368-6056

Jill Lightwood
Coordinator
Justice Resource Services
Justice and Corrections
Attorney General
(902) 368 4583

Newfoundland and Labrador

Cathy Foster
Family Counsellor
Supreme Court of Newfoundland and Labrador
Unified Family Court
(709) 729-2322

Berkley Reynolds
Court Administrator
Supreme Court of Newfoundland and Labrador
Unified Family Court
709 729 1864

New Brunswick

Michael Guravich
Operations Consultant
Program Support Branch
Court Services Division
New Brunswick Dept. of Justice
(506) 457-6952

Nunavut

Andrejs Berzins
Policy Counsel
Nunavut Department of Justice
(867) 975-6172

Yukon

Deanna McLeod
Project Officer
Child Support Guidelines
Yukon Department of Justice
(867) 667-3066

Northwest Territories

Janice Laycock
Policy Advisor
Northwest Territories Department of Justice
(867) 873-7772

Hawaii

Charlene Anaya
Kids First Coordinator
Family Court of the First Circuit
Office of the Director
The Judiciary—State of Hawaii
Honolulu, Hawaii 96811-3498
(808) 539-4291
Fax: (808) 539-4402
chanahi@hotmail.com

Hon. Douglas McNish
Second Circuit Court
2145 Main St.
Wailuku, HI 96793
(808) 244-2702
Fax: (808) 244-2704
mcnish@maui.net