

PART I



----- ONE -----
INTRODUCTION

This document reports the results of a prospective follow-up study of the social and psychological adjustment of 77 children, approximately four years after they were referred to the Child Witness Project. All had been victims of sexual abuse and all had faced the prospect of testifying against their alleged abusers in criminal court. We re-interviewed them to learn what had happened in the years since their court cases ended and how the prosecution had affected their lives. Psychological testing was used to measure their current level of emotional adjustment. Attempts were made to identify the factors that best predicted emotional outcome in the three years following court. The report concludes with comments on Canada's laws on child sexual abuse, their implementation, and recommendations for future reform and further research.

BACKGROUND

The incidence and prevalence of child sexual abuse in Canada are unknown, but we have recognized how widespread a phenomenon it may be. In a national probability sample of 3,207 grade eight, nine, and ten students, 18 percent of girls and ten percent of boys reported having experienced sexual abuse.¹ We know sexual assault victims are reluctant to report the crime to the police. A 1982 Canadian victimization survey revealed that this was true of an estimated 62 percent of female sexual assault victims over 16 years of age.² An even lower rate of reporting was found in a survey of 2,008 adults commissioned by the Badgley Committee to investigate the prevalence of child sexual abuse in Canada.³ In this survey, we learned that the male victims were much less likely than the female victims to have reported the incident (11 versus 24 percent respectively).

The Badgley survey also revealed that the vast majority of the unwanted sexual contacts experienced by the respondents had occurred when they were under the age of 18. Although some cases of child sexual abuse did go to court,⁴ the Committee identified significant obstacles to the prosecution of people who sexually victimized children and adolescents. Based largely upon their recommendations, in 1987, Parliament amended the *Criminal Code* and the *Canada Evidence Act* (Bill C-15).⁵ These Canadian developments were contemporaneous

¹ J. Holmes & E.L. Silverman (1992). *We're Here, Listen To Us! A Survey of Young Women in Canada*. Ottawa: Canadian Advisory Council on the Status of Women. In a self-administered questionnaire, the children disagreed with the statement "I have **not** experienced sexual abuse."

² Solicitor General Canada (1984). *Canadian Urban Victimization Survey Bulletin 2: Reported and Unreported Crimes*. Ottawa: Programs Branch, Solicitor General Canada. In a telephone survey, women reported an achieved or attempted sexual assault or "molestation" in the previous year.

³ Committee on Sexual Offences Against Children and Youth (1984). *Report of the Committee on Sexual Offences Against Children and Youth, Volumes I and II*. Ottawa: Minister of Supply and Services Canada. See also W. Glackman (1991). The Treatment of Sex Offenders. In M.A. Jackson & C.T. Griffiths, eds., *Canadian Criminology: Perspectives on Crime and Criminality*. Toronto: (con't) Harcourt Brace Jovanovich, pp. 239-55.

⁴ L. Biesenthal (1991). *Child Sexual Abuse Prior to Bill C-15: A Synthesis Report*. Ottawa: Research Section, Department of Justice.

⁵ *An Act to Amend the Criminal Code and Canada Evidence Act*, S.C. 1986-87, c. C-15 (passed by the House of Commons on June 23, 1987), now R.S.C. 1985, c. 19 (3rd Supp.).

with similar legal reforms in most American states,⁶ Australia and the United Kingdom.⁷ Even younger children are now seen as at least potentially competent to testify, hearsay restrictions are being relaxed, and testimonial aids (such as screens and closed-circuit television systems) are provided for in the laws of many jurisdictions.

BILL C-15 (1988)

The package of amendments contained in Bill C-15 greatly expanded the circumstances under which child abusers could be dealt with in the criminal courts. There were three principal changes. First, it became possible to convict an accused on the basis of the unsworn evidence of a child. Previously, a child judicially considered to be too young to understand the nature of an oath would probably not have testified because, in the absence of corroborating evidence, the accused could not have been convicted. Today, the trier of fact can hear a child's evidence and assess its credibility and how much weight it deserves. This amendment was significant because child sexual abuse is characterized by its covert nature and there are rarely eyewitnesses or other types of corroborative evidence.

Second, the difficulty child victims of sexual abuse could experience testifying in open court against their alleged abusers was recognized. Provision was made for children to testify from behind a one-way screen or to testify from a separate room with a closed-circuit television link. A video tape of a child's statement made soon after disclosure could be admitted into evidence; but, in all but a few cases, this would not obviate the need for the child to testify.

Third, several new sex offence categories were created. One intent was to be able to respond to a wider range of sexually-abusive behaviours than was possible using the existing law. For example, exposure and a request to sexually touch a perpetrator are behaviours common in the early, or 'grooming,' stage of the sexual abuse of a child. Officials are now empowered to intervene before this initiatory behaviour escalates into more intrusive sexual abuse. The new offences are sexual touching, invitation to sexual touching, and exposure of genitals to a person under 14 years of age. In addition, the sexual abuse of adolescents by people in positions of trust or authority was addressed in the new offence of sexual exploitation.

BILL C-127 (1983)

Bill C-15 was a significant development, but equally important were 1983 amendments to the laws pertaining to sexual offences, many of which were extended by Bill C-15 to include offences against children. Bill C-127⁸ also responded to long-standing criticisms of the existing laws.⁹ Rape, attempted rape and the indecent assaults were repealed and replaced with three levels of "sexual assault," gender-neutral offences. The evidentiary requirement for penetration was thus abolished and, arguably, a wider array of behaviours fell under the purview of the criminal law.¹⁰

In addition, several evidentiary rules were changed. First, the rule of recent complaint was effectively abolished. This would have importance for child victims because of the delayed disclosure that characterizes

⁶ D. Whitcomb (1992). *When the Victim is a Child*, 2nd edition. Washington: National Institute of Justice.

⁷ See, generally, H. Dent & R. Flin (eds.), *Children as Witnesses*. London: John Wiley & Sons.

⁸ *Criminal Law Amendment Act*, S.C. 1980-81-82, c. 125.

⁹ See, for example, L. Clark & D. Lewis (1977). *Rape: The Price of Coercive Sexuality*. Toronto: University of Toronto Press.

¹⁰ See, generally, C. Boyle (1985). *Sexual Assault*. Toronto: Carswell; and, J. Osborne (1984). Rape Law Reform: The New Cosmetic for Canadian Women. *Women & Politics*, 4: 49-64.

child sexual abuse cases. Second, the need for corroboration was abolished. Prior to this, the trier of fact had to consider that it was unsafe to convict solely on the basis of the uncorroborated testimony of a rape complainant. As noted above, sexual abuse is rarely witnessed by third parties. Third, the so-called rape shield laws were put into place, limiting the admissibility of most evidence about a complainant's sexual history.¹¹

With the amendments of these two Bills combined, the range of criminal offences now used to prosecute child sexual abuse is as listed in Table 1.

Table 1

Criminal Code Offences Used to Prosecute Child Sexual Abuse in Canada

OFFENCE	LEVEL	MAXIMUM
Aggravated Sexual Assault	Indictable	Life
Sexual Assault w. Weapon, etc.	Indictable	14 years
Incest	Indictable	14 years
Sexual Assault	Hybrid	10 years
Sexual Interference (w. person < 14 years)	Hybrid	10 years
Invitation to Sexual Touching	Hybrid	10 years
Anal Intercourse	Hybrid	10 years
Sexual Exploitation	Hybrid	5 years
Exposure (to person < 14 years)	Summary	6 months

In April of 1993, the Parliamentary Standing Committee on Justice and the Solicitor General began a scheduled review of the Bill C-15 provisions. Submissions were made by interested parties from across Canada, including the Child Witness Project. The Department of Justice released a series of research reports to aid the Committee.¹² A picture is emerging of how Bill C-15 has affected our official response to child sexual abuse. It would appear that an increasing number of children are required to appear as witnesses in criminal courts. Certainly, a disturbing proportion of sexual offences dealt with in the criminal justice system involves children as victims. Of every ten sexual assault victims known to the police, four are teenagers and four are under 12 years of age.¹³ The rate of admission of sex offenders to federal prisons has increased 20 percent over five years; and, about

¹¹ This protection was weakened with a 1991 decision of the Supreme Court of Canada in a case involving a child victim, but replacement provisions were proclaimed into force in August of 1992.

¹² For a summary, see V. Schmolka (1992). *Is Bill C-15 Working? An Overview of the Research on the Effects of the 1988 Child Sexual Abuse Amendments*. Ottawa: Department of Justice Canada; and, J.P. Hornick (1992). *A Review of the Implementation of the Child Sexual Abuse Legislation in Selected Canadian Sites*. Ottawa: Department of Justice Canada.

¹³ Statistics Canada (1992). Teenage Victims of Violent Crime. *Juristat Service Bulletin*, 12(6). It is likely, however, that child victims are disproportionately represented in official data sources in part because of laws mandating the reporting of child abuse to authorities.

one third of federally-incarcerated sex offenders are there for victimizing children and one third for victimizing adolescents.¹⁴ At the same time, it has become clear that implementation of the Bill C-15 amendments has been slow and variable across the country, particularly true for the use of testimonial aids. Given the exceptional challenge that these cases represent for the criminal justice system, it is imperative that changes in law, procedure and case handling keep pace with our expanding knowledge of the topic.

THE CHILD WITNESS PROJECT EVALUATION

The Child Witness Project of the London Family Court Clinic was initiated in 1987 in anticipation of the proclamation of Bill C-15 to provide clinical court preparation services to children who have to testify, as victims or witnesses, in cases of child sexual abuse. It was initially a demonstration project, funded by Health and Welfare Canada, with a built-in evaluation component.¹⁵ The principal objective was to evaluate different methods of preparing children to testify in criminal and youth court. A secondary goal was to monitor the implementation of the Bill C-15 provisions in Middlesex County, Ontario.

The evaluation study covered a period of three years, during which time almost 200 children faced the prospect of testifying in child sexual abuse cases in Middlesex County. Of these, 144 child victims and witnesses participated in the evaluation study, wherein they were randomly assigned to one of three court-preparation conditions. The relative effect of the court-preparation models was assessed as it related to children's general knowledge of court, level of anxiety, performance as witnesses, and immediate post-court adjustment.

Results of the evaluation indicated that the clinical court preparation offered by the Child Witness Project benefitted the children in four distinct ways:

- (1) educating them about court terminology and procedures;
- (2) helping them cope with their stress and anxieties related to the abuse and to testifying;
- (3) helping them tell their stories in court; and,
- (4) providing an advocacy role on their behalf with other mandated agencies within the criminal justice system.

The study focused on the immediate post-court period, tracking each case until shortly after the matter was resolved, with either an acquittal or a sentence. The children and their parents were re-interviewed for feedback at that point and some psychological testing was re-administered. We were,

¹⁴ Correctional Service of Canada (1991). Everything You Wanted to Know About Canadian Federal Sex Offenders and More.... *Forum on Corrections Research*, 3(4): 3-6.

¹⁵ L. Sas *et al.* (1991). *Reducing the System-Induced Trauma for Child Sexual Abuse Victims through Court Preparation, Assessment and Follow-up*. London, ON: Child Witness Project, London Family Court Clinic. The evaluation was funded by the National Welfare Grants Directorate, Health and Welfare Canada, through the Family Violence Initiative, Project No. FVPD #2266. Copies of this report are available for the cost of postage and handling (\$10.00 in Canada) from the London Family Court Clinic.

therefore, able to assess the short-term impact of the court experience on the child witnesses and their families.

RATIONALE FOR THE PRESENT STUDY

Over the last ten years, it has been discovered that child sexual abuse is a serious social problem, far more wide-spread than previously imagined. Intrafamilial abuse especially has been reconceptualized from being a child welfare issue to one more properly dealt with in the criminal courts. Through the criminal prosecution of child abusers, we as a society display our collective disapproval of abuse, and we hope to deter, punish, incapacitate, or help offenders. But what precisely are the benefits for the individual child victims? What are the personal costs? After the promising results regarding court preparation, a broader question on the long-term effects of court involvement on children begged our attention.

LITERATURE REVIEW

According to the clinical literature,¹⁶ survivors of child sexual abuse display a wide range of symptomatology in both the long and short term. This includes: social withdrawal, depression, low self-esteem, somatic complaints, eroticized behaviour, anxiety, and irrational fears. Some authors have noted symptoms of post-traumatic stress disorder associated with childhood sexual abuse.¹⁷ As a result, child victims of sexual abuse represent a vulnerable population. At the same time, these children are often the most critical sources of evidence in a criminal prosecution. Assessing the extent to which their emotional and cognitive states affect their ability to interact with the criminal justice system is an important task. In particular, understanding their ability to handle the stress related to testifying in front of their abusers is central to developing an effective court-preparation protocol.

There are few prospective studies focusing on the long-term impact of child sexual abuse, and even fewer on the impact of court involvement. The early literature regarding child witnesses was dominated by discussions of competency, reliability and false allegations of abuse.¹⁸ More recent work has examined children's acquisition of legal knowledge.¹⁹ A number of researchers have documented criminal justice decision making and court processing of child sexual abuse cases.²⁰ Yet, even early on, anecdotal and case study data suggested that contact by child victims with the criminal

¹⁶ A. Browne & D. Finkelhor (1986). Impact of Child Sexual Abuse: A Review of the Research. *Psychological Bulletin*, 99(1): 66-77; and, G.E. Wyatt & G.J. Powell, eds. (1988). *The Lasting Effects of Child Sexual Abuse*. Newbury Park, CA: Sage.

¹⁷ See, for example, S. Eth & R.S. Pynoos (1985). *Post-Traumatic Stress Disorder in Children*. Los Angeles, CA: American Psychiatric Association.

¹⁸ For an historical review, see S.J. Ceci & M. Bruck (1993). Suggestibility of the Child Witness: A Historical Review and Synthesis. *Psychological Bulletin*, 113: 403-39.

¹⁹ See, for example, G.B. Melton, S.P. Limber, J.E. Jacobs, L.B. Oberlander, L. Berliner & M. Yamamoto (1992). *Preparing Sexually Abused Children for Testimony: Children's Perceptions of the Legal Process, Final Report to the National Center on Child Abuse and Neglect*. Lincoln, NE: Center on Children, Families and the Law, University of Nebraska-Lincoln.

²⁰ One of the most recent is a study of eight U.S. jurisdictions: E. Gray (1993). *Unequal Justice: The Prosecution of Child Sexual Abuse*. New York: The Free Press.

courts could exacerbate the emotional distress caused by the abuse, prolong the symptoms, and create additional stresses.²¹

Indeed, the last decade saw an explosion of research warning of the potential for trauma associated with court testimony for children.²² The underlying premise in these research studies and clinical reports was that the experience of child witnesses could parallel the negative emotional effects previously documented for adult rape victims who had to testify in court.²³ For children, however, the negative effects may be amplified. System stressors combined with the emotional sequelae related to the abuse itself can result in a high level of stress in children, a factor which can negatively affect their ability to provide competent and compelling evidence in a court of law.²⁴

Court involvement is a lengthy process, wherein resolution may be months or even years away. It is commonly believed that children, because of their inherent vulnerabilities, are more stressed in court than their adult counterparts. In fact, they may be pushed beyond their level of competence. The child is expected to perform in a complex and at times foreign environment, and the result can be a negation of the child's credibility. Their developmental constraints can translate into an inability to understand court proceedings, legal terminology, and complex questions during examinations. They can be in a dependent relationship with the accused person which makes the entire experience more difficult and them appear less credible. They can have difficulty gauging the passage of time, which affects their account of events, as well as making it seem to them as though the court process last forever. Other demands of courtroom testimony add to the child's dilemma. Parents may not be permitted in the courtroom, if they are subpoenaed as witnesses and must be excluded. Children usually must face the defendant during their testimony. In our evaluation study, it was established that the most salient fear acknowledged by children prior to court is facing the accused person.

The goal of the criminal justice system certainly is not to revictimize the children in court. Are children, however, further traumatized in this process, and does the court experience and its aftermath negate any benefits from gaining a conviction of a child abuser? A small but growing body of work can now be found that addresses this issue.

One of the earliest studies to focus on the psychological well-being of children who have to testify was carried out in the late 1960s in New York.²⁵ Two hundred fifty cases of child sexual abuse were followed after the laying of charges. Of these, 172 went to court. While plagued by

²¹ E.H. Weiss & R.F. Berg (1982). Child Victims of Sexual Assault: Implications of Court Procedures. *Journal of the American Academy of Child Psychiatry*, 21: 513-8.

²² L. Berliner & M.K. Barbieri (1984). The Testimony of the Child Victim of Sexual Assault. *Journal of Social Issues*, 40: 125-37; J. Bulkey (1982). *Recommendations for Improving Legal Intervention in Intrafamily Child Sexual Abuse Cases*. Washington, DC: National Legal Resource Centre for Child Advocacy and Protection, American Bar Association; P. Jaffe, S. Wilson & L. Sas (1987). Court Testimony of Child Sexual Abuse Victims: Emerging Issues in Clinical Assessment. *Canadian Psychology*, 28: 291-5; and, V. Wolfe, L. Sas & S. Wilson (1987). Some Issues in Preparing Sexually Abused Children for Courtroom Testimony. *Behavior Therapist*, 10: 107-13.

²³ See, for example, L.J. Veronen & D.G. Kilpatrick (1983). Stress Management for Rape Victims. In D. Meichenbaum & M.E. Jaremko, eds., *Stress Reduction and Prevention*. New York: Plenum, pp. 341-74.

²⁴ S.A. Watkins (1990). The Double Victim: The Sexually Abused Child and the Judicial System. *Child & Adolescent Social Work*, 7: 29-42.

²⁵ V. DeFrancis (1969). *Protecting the Child Victim of Sex Crimes Committed by Adults*. Denver, CO: American Humane Association. It was republished in 1971 in *Federal Probation*, 35: 15-20.

methodological problems, the findings of the study suggested that numerous court appearances may be stressful for children, and they showed that parents could be resentful of court involvement. A majority of the parents who were questioned felt that the experience had been negative for their children and had put too much pressure on them.

In 1987, nearly two decades later, 48 child victims of sexual abuse were questioned about their experiences in the criminal justice system.²⁶ While the majority regarded the legal process as helpful rather than harmful, the response rate of 40 percent indicates caution should be used in generalizing that conclusion. Moreover, 23 percent of the children had testified via a closed-circuit television system. This concession may well have ameliorated some of the most difficult aspects of the experience, relative to the conditions under which most children have to testify.

At the same time, across the world in Australia, a similar retrospective study was carried out.²⁷ The authors tried to locate 300 child abuse victims about two and one-half years after referral. The response rate was extremely low. Only six of the interviewed children had testified in court. They questioned 21 non-offending parents about their perceptions of their children's feelings about court. Looking back, almost all (86 percent) felt that their children had been very upset immediately following the hearing. After 2.6 years, 57 percent felt that their children continued to be extremely upset about court. When asked about their view of the prosecution, 76 percent of the parents indicated complete dissatisfaction with the process.

In the early 1980s, a group of 156 child sexual abuse victims was studied at the New England Medical Center Hospital.²⁸ All had been referred to the Division of Child Psychiatry for treatment. Psychological testing revealed that the incidence of clinically-significant symptoms was far higher than in the general population. At an 18-month follow-up, with a response rate of 74 percent, they found a significant decrease in overall pathology in 55 percent of cases. The change was not correlated with demographic or abuse characteristics. They found instead that the manner in which the abuse had been discovered and the maternal response to the discovery were the best predictors of improvement.²⁹ When questioned about their experience, 19 percent of the adolescent victims regretted having disclosed the abuse. A small subset of cases, 37 in total, had resulted in a criminal prosecution. In 48 percent of these cases, the parents felt that the experience had been harmful for their children and 46 percent felt it had been beneficial.

A group of child sexual abuse victims was tracked prospectively in a series of studies

²⁶ J.F. Tedesco & S.V. Schnell (1987). Children's Reactions to Sex Abuse Investigations and Litigation. *Child Abuse & Neglect*, 11: 267-272.

²⁷ R.K. Oates & L. Tong (1987). Sexual Abuse of Children: An Area with Room for Professional Reforms. *The Medical Journal of Australia*, 147: 544-8.

²⁸ B. Gomes-Schwartz, J.M. Horowitz & A.P. Cardarelli (1990). *Child Sexual Abuse: The Initial Effects*. Newbury Park, CA: Sage.

²⁹ The disclosure data from this study are discussed in: M. Sauzier (1989). Disclosure of Child Sexual Abuse: For Better or for Worse. *Psychiatric Clinics of North America*, 12: 455-69. The study focused on maternal responses because information on fathers was not available in most cases.

undertaken in North Carolina.³⁰ Although the sample was made up of 100 children, by the time of follow-up, only a very few children had actually had their day in court, and those who did had testified in juvenile court. Preliminary analysis suggested that some children might improve after testifying, either because testifying is beneficial or because it marks the end of their active involvement in the process. The latter explanation was given credence by the finding that the children did not make marked improvements in emotional well-being until after the court case was over. The researchers hypothesized that the lengthy pre-court waiting period was the factor that contributed to the continued anxiety of the child witnesses.

Debra Whitcomb and her colleagues³¹ set out to answer this question: How can child sexual abuse cases be most effectively prosecuted without imposing additional trauma on the child? They studied four U.S. jurisdictions, each with different legal requirements and intervention strategies for child witnesses. A prospective sample of 543 cases was tracked through the system. All had been referred for prosecution by police or child welfare officials, and 336 cases were eventually selected for prosecution. The intention of the researchers was to evaluate the impact of case processing features on the emotional well-being of the children. This was accomplished through interviews and psychological testing at two points: shortly after the case was referred for prosecution; and, again between seven and nine months later. A total of 256 children participated in both interviews, a follow-up rate of 89 percent. Of these cases, 193 of the children (75 percent) had testified, once, twice or three times.

They found that the children as a group experienced high levels of emotional distress at the time of the pre-court interview. However, there was no correlation between the results of the battery of psychological tests and any demographic or abuse variables. And, while overall maternal support did not differ between extrafamilial and intrafamilial cases, mothers of intrafamilial victims displayed significantly lower levels of belief in the abuse allegation and were less likely to demonstrate disapproval of the perpetrator's behaviour.³²

The group had improved by the time of follow-up, suggesting that the initial distress manifested by the child victims dissipated with time for most of them. In attempting to explain variations in degree of improvement, they found no significant main effect for testifying versus not testifying for any of their psychological measures. So testifying in and of itself did not have a negative effect on the mental health of the children in this study. However, the level of stress of the court experience was associated with emotional outcome for some children. The researchers used a rating of intervention stress, indicated by number of times testifying, length of testimony and harshness of cross-examination. However, the association between court stress and emotional outcome held true only for older children, possibly because the younger children reported much less stressful testimony experiences. In addition, parents of younger children were more likely to rate the experience of

³⁰ These data have been reported on in several articles, including: D.K. Runyan *et al.* (1988). Impact of Legal Intervention on Sexually Abused Children, *The Journal of Pediatrics*, 113: 647-53; N.M.P. King, W.M. Hunter & D.K. Runyan (1988). Going to Court: The Experience of Child Victims of Sexual Abuse. *Journal of Health Politics, Policy and Law*, 13: 1-17; M. Everson, W.M. Hunter, D.K. Runyan, G.A. Edelson & M.L. Coulter (1989). Maternal Support Following a Disclosure of Incest. *American Journal of Orthopsychiatry*, 59: 197-207; and, W.M. Hunter (1990). Determinants of Placement for Sexually Abused Children. *Child Abuse & Neglect*, 14: 407-17.

³¹ D. Whitcomb, D.K. Runyan, E. DeVos, W.M. Hunter *et al.* (1991). *Final Report: Child Victim as Witness Research and Development Program*. Washington, DC: Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice.

³² Maternal support was measured with the Parental Reaction to Abuse Disclosure Scale (PRADS), a refinement of a measure first presented in Everson *et al.* (1989), *supra*. note 30.

testifying as being beneficial for the children.

In the most recent study by Gail Goodman and her colleagues,³³ caregiver reports on the Child Behavior Checklist (CBCL) were obtained at intake, and at three follow-up intervals. The last follow-up point was soon after the case was disposed of by the courts, an average of 11 months after the children first testified. The goal of the study was to determine the emotional effects of testifying on child sexual abuse victims. Therefore, testifiers were matched with non-testifiers on seven variables to form two groups for comparison. The two groups were fairly similar but there were some differences on abuse variables, such as the fact that the testifiers were more likely to have been injured during the abuse. The researchers could not control which children eventually testified so, as it turned out, there were some differences between the testifying and comparison groups, factors probably associated with a prosecution decision to take a case to trial rather than negotiate a conclusion.

According to caregiver reports on the CBCL, the children manifested substantial disturbance at intake, the mean being in the clinical range. At the first follow-up point, three months after the testifiers had first testified, improvement was evident for both groups (n=46 pairs), regardless of whether they had testified or not. There was an age effect in that children in the middle range (six to 11) improved the most. Overall, however, despite the improvement, the group continued to manifest signs of disturbance — possibly because the majority of cases were still before the courts — and there was no difference between testifiers and non-testifiers.

At seven months, the group had decreased to 37 pairs. The differences between the two groups were the greatest at this point than at any other. Children who had not testified had improved significantly relative to their level of disturbance at intake, while the testifiers had showed less improvement. After covarying out the intake CBCL scores, there were marginal differences between the two groups suggesting that the testifiers were more disturbed as a group than the non-testifiers. The non-testifiers tended to score in the normal range and the testifiers in the clinical range.

At 11 months, there were 28 pairs remaining. Eighteen of the testifiers had testified once and ten had testified at least twice. Both the testifying and non-testifying groups had evidenced significant decreases in behavioural problems compared with the time of intake. However, the non-testifiers had improved the most, this being especially true for internalizing symptoms. There was not a significant difference between the two groups at any follow-up point. Those who testified more than once fared worse than non-testifiers or single testifiers. Moreover, those who testified more than once were judged to have experienced more traumas in their lives since the prosecution had been initiated, adding to their stress.

Overall, therefore, they found a general tendency for the children to improve over time since the intake testing. The researchers then turned to the issue of predicting which children were most likely to improve. They also noted that there was a subgroup of testifiers whose CBCL scores worsened over the 11 months. At seven months, the variables related to positive improvement in this study were: maternal support; having corroborative evidence; and having, fewer times on the witness stand. When length of time in the system was taken into account, there was improvement with time regardless of whether the children had testified or not. Factors that had no predictive validity included: psychological counselling; number of times the child was questioned; and, case outcome.

³³ G. Goodman, E. Pyle-Taub, D.P.H. Jones, P. England, L. Port, L. Rudy & L. Prado (1992). Testifying in Criminal Court: The Effects on Child Sexual Assault Victims. *Monographs of the Society for Research in Child Development*, Serial No. 229, Vol. 57, No. 5.

In sum, the research has resulted in some inconsistent findings. However, it would appear that almost all children manifest emotional distress around the time of court. It also seems that the mental health of most, but not all, can improve over time. Maternal support emerges as a crucial variable in predicting who will improve, more important than abuse characteristics or demographics. At the same time, we see from several studies that parents may be hostile to the prosecution or see it as harmful for their children. One study has suggested that mothers of sexually abused children are almost equally victimized by the experience and that their distress may interfere with their judgment of the emotional well-being of their children.³⁴ Therefore, parents cannot in all cases be expected to provide the emotional support that is apparently so important.

Is testifying cathartic? Or, is it harmful? There is an emerging consensus that the experience of testifying, per se, does not have long-term deleterious effects. Whitcomb and her colleagues determined that it was the harshness of the experience of testifying that was associated with post-court emotional adjustment; and Goodman and her colleagues noted an association between multiple testimony experiences and failure to improve over the short term. In a commentary on the latter study, John Myers concluded:

One of the most important findings of the present research is that, although testifying is stressful, children weather the storm. The fact that most children who testify improve with time supports the continued use of their testimony. All child witnesses are entitled to humane and developmentally appropriate treatment at the hands of the legal system, and special accommodations must be made for children at risk of lasting trauma. The overriding theme of this research, however, is that children are strong and resilient. They bounce back.³⁵

Perhaps Dr. Myers is stating the case too strongly. How can we determine who will or will not "bounce back?" And, more importantly, how can we change the experience so as to avoid needless secondary trauma in the first place?

We are beginning to see that there are extralegal factors that shape children's experiences in court, regardless of whether they testify. What goes on outside the courtroom is usually as important as what happens in it. As clinicians at the London Family Court Clinic's Child Witness Project, we were interested in determining whether child sexual abuse victims are adversely affected by their experiences in the criminal justice system and which, if any, modifications might mitigate the stress of attending court. Underpinning this is an assumption that justice is aided by complete and reliable evidence from child complainants. The more we understand about the experiences of child witnesses, the better we are able to help them tell their stories.

THE PRESENT STUDY

For this study, we sought feedback from the one group who best understood what it is like to be a child victim in a criminal justice proceeding. We were interested in children's perceptions of their court experiences and the advice they would give to others in the same circumstances. In addition, we wanted to look beyond the immediate stress of going to court — stress that every witness must

³⁴ C.M. Newberger, I.M. Gremy, C.M. Waternaux & E.H. Newberger (1993). Mothers of Sexually Abused Children: Trauma and Repair in Longitudinal Perspective. *American Journal of Orthopsychiatry*, 63: 92-102.

³⁵ J.E.B. Myers (1992). Commentary: Steps Toward Forensically Relevant Research. *Monographs of the Society for Research in Child Development*, Serial No. 229, 57(5): 143-52, at 145.

experience to some degree — and look at the wider consequences of the prosecution. When a child discloses abuse by a family member, the case does not end with the verdict, at least not from the child's point of view. What happens in the long term? What are the differences and similarities of prosecuting extrafamilial abuse cases versus intrafamilial abuse cases? What are the advantages and disadvantages of taking these cases to court?

Because this follow-up was conducted an average of two years and eight months after the case ended, it was possible to obtain the children's reflections on their experiences, from disclosure to court outcome. We wanted to learn how the prosecution had affected their family, schooling, and standard of living, as well as their emotional well-being. We were supported in our endeavour by many authors including Benjamin, who noted after reviewing the literature: "[e]ven with constant vigilance, and an extraordinary effort in avoiding compounding [the difficulties of children in coping with the legal system], there can be no guarantee of success until there is a unified, concentrated energy in longitudinal research."³⁶

THEORETICAL FRAMEWORK

Understanding the long-term impact of sexual abuse and subsequent involvement with the criminal justice system is a difficult endeavour. There are a multiplicity of factors that influence a child's initial reaction to abuse and, for that matter, their emotional adjustment several years later. The interplay between personal and situational variables can result in a different outcome for two children who have suffered the same abuse. Therefore, it is important to have a theoretical framework or conceptualization which hypothesizes the relationship between the various case descriptors and the outcome for a child. Failing to appreciate the importance of particular pre-morbid child/family characteristics, or abuse characteristics or presence of post-disclosure stressors, for example, could result in misinterpretation of why some children recover and others do not. Furthermore, attempting to determine the emotional impact of involvement in the criminal justice system separate from the impact of the abuse itself is made even more arduous by the fact that, for many children, all the events are blended into a single stressful experience.

Over the last six years, the clinicians at the Child Witness Project have come to appreciate that these children do not constitute a homogeneous group, simply because they have all been sexually abused. There are some common experiences that they share as victims. Many of the children have to testify about their abuse, in the presence of their alleged abuser. That, however, is where the similarity ends. Preparing children to testify through our court-preparation model has taught us that every case merits individual assessment and attention. An effort must be made to discover how the victimization has been part of that child's life, and what repercussions have followed from the disclosure. Background issues, such as divorce or parental illness, are present in the lives of many children, for example. Only with an appreciation of all these factors can analysis of the added impact of the system stressors be carried out with any validity.

This study is a modest attempt to follow-up child witnesses who were seen at the Child Witness Project for services during our demonstration grant. A key objective was to provide a clinical picture of these children and to ask some very difficult questions about who succeeded in recovering from the sexual abuse, and to what extent the court involvement hindered or promoted this emotional recovery. As well, the study was designed to provide detailed demographic information about subsequent life

³⁶ C. Benjamin (1991). Long-term Effects on Children and Their Families. In J. Vernon (ed.), *Children as Witnesses: Conference Proceedings*. Canberra, Australia: Australian Institute of Criminology, pp. 220-6, at p. 225.

events after court. Most studies end with the verdict, but our interest extends to longer-term, post-court adjustment. We hope to identify what, if anything, parents, professionals and communities can do to assist children after disclosures, so that the trauma of abuse is not magnified.

Figure 1 outlines the concepts, in chronological order (relative to the timing of the abuse), that are focused on in the study. It served as the theoretical model that guided the statistical analysis.

Figure 1

Theoretical Framework for the Study

