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DISCUSSION

In summary, this document reports the results of a prospective follow-up study of 126 children who had been referred to the Child Witness Project for court preparation during 1988 and 1989. All had been sexually abused, and had either testified in court or had been expected to testify as a result of their sexual victimization. We re-interviewed 61 children and the parents of 73 children, representing the cases of 77 children, a response rate of 61 percent. Their experiences both before and after court have been chronicled in previous chapters. As much as possible, the ideas and interpretations contained in this chapter reflect opinions of the Child Witness Project clinical and research staff, and flow from numerous discussions that were held during the analysis of the data and the writing of this report.

The goal of this study was to document the long-term impact of criminal justice system involvement on the children's life circumstances, and to assess their current emotional and social adjustment. As well, we were most interested in obtaining their insights into the various stages of the criminal justice system and the effect the different events had had on them as child victims. Who better to ask than the children themselves?

There was a general consensus of opinion among us that we learned a great deal from this study. The research design, although exploratory, has yielded information not previously obtained in Canada. The opportunity to talk at length with the child victims and their mothers years after court was over enabled us to obtain a better understanding of what had happened before court and to learn about the events that transpired over the three years since the verdict.

Contrary to popular belief, a verdict does not trigger resolution of the emotional, familial and social repercussions of the sexual abuse for the victim and her/his family. The children were often skeptical when told by well-intentioned Crown attorneys and police that the entire experience was now over for them. Court testimony represented just another step on a path leading to a place, both emotional and situational, as yet uncharted.

We found that there were far-reaching consequences of criminal justice system involvement. Indeed, for many of the children, their lives changed significantly, and in some cases irrevocably. Not only was it traumatic and frightening to testify in court, but they frequently encountered disbelief, harassment, and public exposure in the courtroom. In addition, for some children the disclosure aftermath had included maternal rejection, financial strain, and estrangement from other family members; and these consequences typically had endured over the three years. Time and time again we were struck by the serious repercussions that befell children whose cases had been prosecuted against the family members who had abused them. Victims of extrafamilial abuse generally fared a little better, but they too remembered the stress of testifying in front of the accused and having to deal with the stigma of sexual abuse. For the most part, the children described all areas of their lives as being affected by disclosing their abuse.

Ninety-five percent of the children interviewed remembered being very afraid of the idea of testifying during the lengthy wait for court. They had vivid memories of their anticipatory fears of seeing the accused in court. News of adjournments were met with mixed feelings, because the need to testify on that day was cancelled but the trial process was extended. All told, each child had to wait an average of one year for the case to be concluded in the courts. Guilty pleas were generally met with feelings of relief.

Those who testified remembered the difficulty they had in repeating the details of the abuse in an open courtroom. Nearly every child witness had found the experience of testifying stressful. Several children described it as the worst day of their lives. On the other hand, some children appeared to remember nothing

of the event, the prosecution being one of a myriad of stressful events in their lives. However, the passage of time had apparently not erased their memories of the anticipatory fears of testifying, nor had it erased the memories of feelings of threat to personal safety that they had experienced.

When asked about their opinions and impressions of the professionals who had been involved in their cases, the children provided some interesting insights. In general, they were complimentary in their ratings of the police, Assistant Crown Attorneys and judges who were involved in their cases; however, they were disparaging of the defense lawyers, with many feeling that they had been humiliated by them. For some children, having their truthfulness doubted by the defense seemed unnecessarily cruel. The support the children received from the Victim/Witness Assistance Program and the Child Witness Project was greatly appreciated and vividly remembered.

When asked for their ideas on how to make the experience of testifying better for other children in the same situation, they offered a number of practical, simple suggestions. The overriding response was that the most difficult aspect of testifying was having to be in the same room with the defendant, and many of their specific suggestions followed from this premise. They suggested that testifying could be made easier for children if they did not have to see the defendant, specifically if he was in another room or if they were outside the courtroom, talking to the judge in chambers or testifying via closed-circuit television. The use of the screen was not widely endorsed by them.

In a similar vein, the desire for a closed courtroom was also frequently expressed. In addition, consistent with our prior findings on the knowledge of legal terminology and general vocabulary in children of varying ages, the follow-up interviews confirmed for us that the children often found the language used in the courtroom too difficult to understand, despite prior instruction on court procedures. We combined their suggestions and our own observation to make several specific recommendations for reform, as summarized in the last chapter of this document.

A negative court outcome was a reality for some of the children interviewed. About half of the cases that went to trial did not result in a finding of guilt, and disappointment over this outcome was articulated by some of the children. Having endured what seemed like an eternity filled with stressful events, many children whose abusers were acquitted were left with the task of somehow trying to make sense of what had transpired. Although some were able to articulate the legal reasoning, such concepts as "reasonable doubt" are difficult for the average person to fully comprehend. Moreover, the verdict often confirmed the warnings by the abusers that no one would believe them if they told.

One of the most innovative parts of the research was the attempt to describe the on-going familial and social consequences of the prosecution of cases of child sexual abuse. Only long-term prospective follow-ups can measure such consequences and we have been able to identify some unforeseen negative repercussions. Almost all these were limited to cases of intrafamilial abuse. They included abandonment by families, estrangement from grandparents, and decline in standard of living. Moreover, the abuse and its prosecution could affect many aspects of a child's life outside the family, including peer relationships and school performance.

Turning to the emotional consequences, we found evidence of much of the emotional and behavioral sequelae that are well-documented to be associated with sexual abuse. Some of the symptomatology dissipates over time, much like the description of recovery in adult female rape victims in Judith Herman's book, *Trauma and Recovery*.⁶⁴ In this book, rape survivors generally reported that their most severe intrusive symptoms diminished after three to six months, but they were still fearful and anxious one year later. For our sample of children, there was a wide range of abusive acts that had occurred and the most severe tended to be associated with lingering symptoms that interfered with the children's abilities to get on with their lives.

⁶⁴ J.L. Herman (1992). *Trauma and Recovery: The Aftermath of Violence — From Domestic Abuse to Political Power*. New York: Basic Books.

In assessing the children whom we interviewed in the follow-up, we drew on a multi-dimensional approach which included psychological testing of the children, parent reports of their adjustment, and an assessment of their actual life circumstances at the time of the interview. The results were both encouraging and disheartening, depending on what we looked at, and how we chose to interpret the findings.

Many of the children did not describe any overt difficulties, and indeed their psychological profiles suggested that for the most part they were functioning in the normal range on many of the administered tests. However, there appeared to be a proportion of children who, for many reasons, were functioning in the clinical range on measures of depression, anxiety, personal vulnerability, and feelings of helplessness. Intrusive thoughts, nightmares, generalized anxiety and fear remained part of the legacy of sexual abuse for some of the children.

Court involvement in the cases of many of these children had not provided a resolution or an end to their emotional suffering. Some of the children we interviewed continued to feel sad and angry about the abuse they had experienced, and many of those whose cases ended in acquittal were disappointed by the court outcome. However, over three quarters of the children interviewed felt that they would likely want to call the police if they were to be abused again in the future. The children who were least likely to say they would call the police if they were to be revictimized were those who had been exposed to violence in their homes and those for whom maternal support following the disclosure was unavailable.

In general, the children who were most distressed and least well adjusted at follow-up were the ones whose cases had resulted in an acquittal, and whose abusers were father figures, especially if that father figure had been physically violent. The children who appeared to be the most well adjusted were the ones whose mothers had been highly supportive right from the moment of disclosure and throughout their court involvement: for these children, even the negative aspects of their involvement in the criminal justice system and the nature of the abuse they experienced seemed to be mitigated by their mother's support.

Having highlighted some of the findings, the discussion will now turn to specific questions which arose during the course of the study.

CAN WE LAY TO REST THE DAMAGING MYTH ABOUT DELAYED DISCLOSURE?

As Child Witness Project therapists we are frequently asked to testify as expert witnesses in court on the issue of delayed disclosure. Despite a fairly substantial body of research attesting to the fact that delayed disclosure is not unusual, defense lawyers continue to be successful in raising doubt in the minds of the judiciary or juries whenever they query whether a child's late disclosure could be indicative of a false accusation.

As part of the attempt to understand children's reactions to the legal system, we asked the children in the follow-up sample about the manner in which their victimizations came to the attention of the authorities. We also conducted secondary analysis of the disclosure patterns of the entire sample of 126 children. Consistent with previous studies, we found that delayed disclosures were the norm. We discovered that disclosure decisions need to be examined within the context of children's social/familial situations, the abusive acts experienced by them, and their gender and age. For instance, in our sample of 126 children, timing of disclosure was related to the relationship of the abuser to the child. Immediate disclosures did not occur in cases where the abuse was perpetrated by stepfathers or biological fathers. Delayed disclosure occurred more frequently when the abuser was a family member.

The findings presented here, combined with the work of other researchers in the area of children's abuse disclosures, indicate that it is incumbent upon Crown prosecutors to advise judges and juries against dismissing a child's testimony on the basis that the child's disclosure was delayed. Our next research endeavour, which focuses specifically on the issue of disclosure, will address this issue in more detail as we attempt to better understand the dynamics of disclosure and how we can facilitate early disclosures from abused children.

WHO PROVIDED SUPPORT FOR CHILD VICTIMS OF SEXUAL ABUSE FOLLOWING DISCLOSURE?

In questioning the children and the mothers, we learned that the fathers were typically uninvolved in supporting the children through the court process or in the aftermath of the sexual abuse. Where were the fathers? Many of the biological fathers were estranged from their children, and did not participate in their upbringing. Some of the fathers did not see their children as a result of a history of family violence, imprisonment, or emotional estrangement. Many were not even aware that their children had been abused. Others were emotionally unavailable to their children, due to such problems as alcoholism or other emotional deficits. A number of the father-figures had themselves perpetrated the abuse. It was an ongoing theme that fathers were often absent in the lives of these children and/or were not emotionally available to support them.

The responsibility for supporting children following their disclosures, and through their involvement in the criminal justice system, appeared to rest solely on the shoulders of the mothers. Their ability to function in a supportive manner was of paramount importance to how the children coped with their experiences, as we learned in this study. Maternal support, in the form of belief in the allegation, emotional comfort to the child, and protective action against the perpetrator, all served to mitigate the negative effects of the child's earlier experiences at the hands of the abuser, and later in the witness box. Support by mothers emerged as one of the most important mediators of child adjustment at follow-up.

In order to maximize a mother's ability to be supportive to her child, measures need to be taken to help her. In light of the importance that her support plays in the eventual recovery and adjustment of the child, as well as the effect her support has on the child's ability to participate fully in the criminal justice system, more has to be done for her, and delivered earlier in the process. Therefore, efforts should be made to determine the extent to which each child has a parent or caregiver who is able to fulfil this need.

IS THERE A LONG-TERM IMPACT OF TESTIFYING IN COURT?

We are not the first group to examine the impact of testifying in court on child witnesses. In general, the literature suggests that testifying is unpleasant, that it is remembered by most children as being frightening, and that it has short-term deleterious effects on children's emotional well-being. We, however, were interested in assessing what, if any, long-term impact testifying in criminal court regarding sexual abuse victimization has on children. When children become witnesses in court they are performing a public duty. The question we pose is: is testifying done at the expense of their own personal well-being?

In our initial evaluation study, we described the fact that children suffered anticipatory fears and exhibited anxieties over testifying in front of the accused. These fears interfered at least temporarily with the ability of many of the children to function well in their daily lives. In our follow-up interviews, the children were able to articulate these initial fears more fully and to describe their impressions of their courtroom experiences. For the most part, the children's memories of testifying were not positive.

However, when we examined the children's general social and emotional adjustment at follow-up, there were no discernible differences between those who testified and those who did not. The only criminal justice system variable we found to be associated with their adjustment at follow-up was court outcome. Negative court outcomes were associated with significantly more emotional distress and poorer adjustment in children.

Despite the finding by numerous researchers that negative effects of testifying dissipate for most children over time, the onus on the criminal justice system to prevent the traumatization of children in the courtroom should not be lessened or ignored. Examples of badgering by defense lawyers, confusion over adult legal terminology, public exposure when recounting intimate and humiliating details of their abuse, and fear of the presence of the accused in the court during their testimony were offered by many children. Moreover, despite some improvements, we continue to observe these factors today.

Children's suggestions for improving the courtroom experience deserve to be listened to and acted

upon for the purpose of the administration of justice. There is sufficient evidence to support the belief that fearful children are less able to be competent witnesses in a court of law. The pursuit of justice is certainly advanced when child witnesses are able to give full and candid accounts of what happened to them.

HOW CAN WE IDENTIFY THOSE CHILDREN MOST IN NEED OF PROFESSIONAL INTERVENTION?

After six years of operation, and over 500 referrals, we are able to offer some observations on the role of criminal justice and community agencies in assisting children who have to go to court. Overall, a coordinated approach is recommended, where mandated and involved agencies work together. Sensitive interviewing by specialized officers is crucial to the success of any prosecution. Early contact by victim-support personnel with child victims, from the time charges are laid, is necessary in order for the early identification of potentially-difficult cases. Individualized court preparation, availability of consultation and expert testimony, and debriefing after court are also necessary.

However, in these times of long waiting lists with finite — and dwindling — resources, it is especially important to identify cases that require special attention. Consideration only of the severity of the sexual abuse is, alone, woefully insufficient for an understanding of how well a child will testify. As a result of our clinical research we are now able to screen cases using empirically-derived criteria. We can provide a profile for professionals to identify children who require more intensive intervention, and intervention from earlier on in the proceedings. Specifically, we have learned that the cases most in need of support are those which fall into one or more of the following categories:

- ! intrafamilial sexual abuse;
- ! sexual abuse within the context of family violence;
- ! children who are very young (under the age of eight);
- ! special needs children (e.g., hearing impairment, developmental delay, attention deficit, etc.);
- ! children from families new to Canada and/or where English is a second language;
- ! children with prior histories of victimization; and,
- ! children whose parents are not providing support.

For those children who fall into more than one category, the need is amplified correspondingly.

Intrafamilial Abuse: The experience of children who testify against a family member is qualitatively different than that of extrafamilial victims. The family has to contend with the crisis of both the victimization of a child and the prosecution of a person within their family system. There are familial, social, and financial repercussions which affect each member of the nuclear unit, and these continue for many years, as we have shown. These are the children who need the greatest attention and, conversely, are the children who are least likely to receive adequate familial support. Child protection agencies play an important role in these situations and are sometimes called upon to remove a child from the family or to take responsibility for a child who has been ostracized from his or her family.

Family Violence: As discussed in greater detail in a later section of this chapter, the existence of violence in the home of a child creates a debilitating dynamic that can inhibit an effective response on the part of the non-abusive parent. When a child is sexually abused by a man who has historically been violent within the home, that child is at great risk. Child protection agencies must play a role in these situations.

Young Children: These children enter into the criminal justice process with little or no pre-existing

knowledge of the legal system. Court preparation should start earlier for young children and may involve more sessions.

Special Needs: Children have varying levels of communication skills, ability to attend to a task and ability to understand complex terminology. Those with special needs can require earlier intervention and more frequent contact in order to maximize the value of their testimony.

New Canadians: Although not an issue of prominence in the original sample of children, in recent years we are seeing children from an increasingly broader range of ethnic backgrounds. The countries of origin of some of these children have dramatically different legal cultures and systems. Interpreters are increasingly being used; but beyond the language barrier, efforts must be made to be culturally sensitive in the support provided these children and their families.

Previously Abused Children: Children who have been previously victimized in a sexual way represent an extremely vulnerable population, and efforts must be made to intervene to end the cycle of victimization.

Child with No Parental Support: Perhaps one of the most significant conclusions of this study is that the effective assistance of a parent or a significant caregiver is essential to how children cope with sexual abuse, court, and the aftermath of prosecution. This speaks to the need, discussed above, for efforts to be made to involve parents during the court preparation process to ensure that they are informed about the legal process and that they understand their important role. Children with no parental support are in need of professional intervention and increased support.

ARE ALL TYPES OF SEXUAL ABUSE CASES INVOLVING CHILDREN EQUALLY SERVED BY THE CRIMINAL JUSTICE SYSTEM?

This was not one of our original questions, but it developed out of concern that there seemed to be disparity in the treatment of certain types of cases and victims, that was played out from victim selection and abuse characteristics, to disclosure, through to the processing of the case in the criminal justice system, and finally to the court outcome and sentence. The type of case that we felt was least well served by the criminal justice system was the intrafamilial case; and the victim who was the least well served was the female victim, in particular, adolescent girls abused by step-fathers.

The disparity began early, in that more female victims than male victims were abused by someone close to them in their family, resulting in a betrayal of trust within a significant parental relationship. Boys were more likely to be believed by their mothers about the abuse than females, and their mothers were more likely to take protective action on their behalf. The reason for this, as was previously discussed, is that many mothers found it difficult to be supportive in situations where they had a relationship with the abuser. Males were less likely to have been abused by their mothers' partners. Females were more at risk with the men in their family than with strangers, in particular when stepfathers were present. As a result they were less likely to get the support they needed.

The next stage, where the disparity was evident was during the pre-trial period. Guilty pleas were less likely to be entered in intrafamilial cases, resulting in the need on almost every occasion for the victims to testify. Bias appeared to exist in the court outcomes as well, as evidenced by the low rate of conviction for intrafamilial abuse relative to extrafamilial abuse, especially in cases of stepfathers who abused their daughters. Lastly we were alarmed to discover that the victimization of male victims attracted much longer sentences compared with the abuse of female victims.

Summarized in the following table are the differences between case characteristics for male and female victims:

Table 34

Gender Disparity at Selected Stages in Child Sexual Abuse and Case Processing

	MORE LIKELY	LESS LIKELY
Intrafamilial Abuse	Females	Males
Long-term Abuse	Females	Males
Belief by Mother	Males	Females
Conviction at Trial	Males	Females
Longer Sentence	Males	Females

WHAT IS THE CONNECTION BETWEEN CHILDHOOD SEXUAL VICTIMIZATION AND EXPOSURE TO VIOLENCE IN THE HOME?

According to their own reports and/or the reports of their mothers, 60 percent of the children we interviewed had been exposed to physical violence within their homes. This already alarming figure rose to 78 percent for the victims of intrafamilial abuse, over 50 percent of whom had been themselves physically assaulted either by their sexual perpetrators, or by another father figure, in the home.

We are cautious about attempting to interpret these findings on the basis of the information available to us. Clearly, more questions need to be asked:

- ! Did the in-depth interviews and the rapport established between clinicians and participants during the follow-up study facilitate disclosure when specific questions were then asked about exposure to physical violence in the home?
- ! Accordingly, is the information we obtained a more accurate reflection of the incidence of privatised violence in our society than has previously been documented?
- ! Are sexually-victimized children more likely to have been exposed to violence in their homes or, put another way, are children exposed to physical violence in intimate familial relationships more vulnerable to sexual victimization?

Clearly, the latter question or hypothesis is potentially the most controversial. It speaks to the unremitting transmittal of violence from generation to generation and to the cyclical nature of physical abuse. When sexual assault is positioned as a violent act, it can also feature in this equation.

A mother who has felt powerless to end the cycle of physical and/or sexual victimization in her own life is frequently not in a position to engender self-protective actions in her children. In this study, we have referred to some mothers' ambivalence or inability to support their children. These observations are based on our perceptions of the children's unmet needs, on supporting data from the children themselves and from collateral sources of information. We have been acutely aware of the negative impact upon some of the children of the absence of mother support and we have written about this from the child's perspective. We are, however, mindful of the insidious and immobilising effect of exposure to repeated acts of interpersonal violence. Rather than dismissing those mothers of child victims who are themselves victims and also unsupportive of their children, our study highlights the following:

- ! the overwhelming need to end the cycle of violence;

- ! the need to identify high risk populations and to intervene effectively;
- ! the need to intensify our efforts in assisting mothers, who are themselves victims, to support their victimized children; and,
- ! the need for further study to examine critically the connection between childhood sexual victimization and exposure to violence in the home.

FUTURE DIRECTIONS

On reviewing all the results obtained in the follow-up study on the long-term effects, as well as our previous evaluation study on the short-term effects, of criminal justice system involvement on children, we remain advocates of prosecution for child sexual abusers; even when it means that the child victims will be witnesses in court. The overall benefits of bringing these cases to court, we believe, will in the long run outweigh some of the negative effects on individual children. This will be especially true if we continue to legislate modifications to court procedures, change public and judicial views on the competency and credibility of child complainants, and carry out meaningful well-controlled research in this area. Future research must address the issue of possible gender disparity within the criminal justice system in dealing with cases of child sexual abuse; increase our knowledge of disclosure patterns and the factors which influence the availability of subsequent support for children; and, explore prevention strategies for combating child sexual abuse. We hope this study will provide other professionals working with child sexual abuse victims with valuable information and insights which will encourage more research in this area.
