



helping a child be a witness in court

101 things to KNOW, SAY and DO



a **Helping Hands** Guide
on Skill Building and Tools
for Helpers and Healers

Authors:

Alison Cunningham, M.A.(Crim.)
Director of Research & Planning

Lynda Stevens, M.Ed., R.S.W., C.P.T.
Child Witness Specialist, Child Witness Project



200 - 254 Pall Mall St.
LONDON ON N6A 5P6 CANADA
info@fcc.on.ca • www.fcc.on.ca

Additional copies may be downloaded from: www.fcc.on.ca

Également disponible en français sous le titre : Pour aider un enfant témoin :
101 choses pour savoir, dire et faire.

Cover design: Synapse Communications

Library and Archives Canada Cataloguing in Publication

Cunningham, Alison J., 1959-
Helping a child be a witness in court: 101 things to know, say & do /
Alison Cunningham, Lynda Stevens.

Issued also in French under title: Pour aider un enfant témoin.

ISBN 978-1-895953-45-9

1. Child witnesses--Canada. 2. Examination of witnesses--Canada--Trial practice.
I. Stevens, Lynda, 1947- II. Centre for Children & Families in the Justice System III. Title.

KE8460.C853

2011347.71'066083

C2011-901356-8

KF8950.C853 2011

© 2011 Centre for Children & Families in the Justice System
(London Family Court Clinic, Inc.)

We gratefully acknowledge funding from the Department of Justice Canada.



Department of Justice
Canada

Ministère de la Justice
Canada

*The opinions expressed herein are those of the authors and do not necessarily reflect
those of the Department of Justice or the Government of Canada.*

Welcome

This is the third “Helping Hands” guide on skill building and tools for helpers and healers. The first two were “Helping an Abused Woman” and “Helping Abused Women in Shelters.” Here we address the needs of children and teenagers who experienced or witnessed interpersonal criminal offences and who might be called to testify in criminal or youth court. At the Child Witness Project of the Centre for Children & Families in the Justice System, we have since 1987 assisted thousands of children and teenagers in this position. In the months preceding a testimony date, we explain what to expect in the legal process, teach basic testimony skills and help them manage any anxieties and worries related to the role of witness. We advocate as necessary for access to testimonial aids and liaise with key actors in the legal process, such as investigating officers and prosecutors, to facilitate the conditions under which each child can testify to the best of his or her ability. On the day of testimony, we help them wait in safety, we may play the role of support person during testimony, and will debrief the experience once concluded. This booklet represents a package of our experiences so court supporters across Canada and elsewhere can better understand and meet the needs of child and teen witnesses.

Who could use this guide?

The term "child witness" as used here means anybody under the age of 18 who is expected to testify in court about something he or she experienced, saw or heard. Across this large and diverse country, a variety of people support children and teens as they wait for the resolution of a criminal case and perhaps when they are called to testify. In most urban areas, court-based victim services assist crime victims to understand and play a role in criminal prosecutions. Where no court-based victim service is available, as in some remote or rural areas, pre-court support can be provided by police officers, school teachers, counsellors, child protection workers, shelter staff, or maybe parents. This guide is an overview for them of essential information needed to support a testifying child. It could also be a training tool for people entering the victim-support field or for victim-support workers who have historically worked with adults.

Features you will see

As you read, you will encounter little boxes of information to enhance your work or understanding or to direct you to sources of further information.



These boxes contain references to our seven-booklet series called “*A Full and Candid Account*”: *Using Special Accommodations and Testimonial Aids to Facilitate the Testimony of Children* (2007). Those booklets, developed with funding from the Department of Justice, describe how to use the measures available by Canadian law to help courts receive complete testimony from young witnesses. The seven topics are:

- overview of issues related to child testimony
- testimony from outside the courtroom
- witness screens
- video-recorded evidence
- designated support person
- hearsay evidence and children
- children and teenagers testifying in domestic violence cases

They can be downloaded from our web site: www.lfcc.on.ca



In boxes like this one you find references to further readings. There's a lot of information out there so we'll point you in the direction of helpful places to learn more about a topic.

RESEARCH FILE



If a specific research project helps illustrate a point, we talk about it in boxes like this one. You'll also find the citation, in case you want to find and read the entire study.

TOOL BOX IDEA



These boxes have ideas for the time you spend with children and teens, as suggestions for practice.



This icon is found where we present and answer questions we often hear when conducting training or when meeting people new to this field.

What topics are covered here?

Each child is unique and deserves advocacy and support matching and meeting his or her individual needs. Instead of prescriptions, we offer principles to guide interventions, flexible tools for practice, and guidance on skill building. We assume that you know the child best so what you need are tools and tips to use flexibly as the situation dictates. We present here our assumptions about child testimony, service principles, relevant research and its implications, the impact of trauma on court testimony, common testimony-related worries, and the components of pre-court preparation and day-of-court support.

What is not addressed here?

Research can be found on many topics not discussed here, including the reliability of eye witness memory, the suggestibility of children, testimonial capacity or competency of children, or the quality or desirable characteristics of investigative interviews. Having addressed this previously, we do not discuss legal issues or the practical contingencies of using testimonial aids. Readers interested in those topics are referred to the *"A Full and Candid Account"* series from 2007.

Why 101 things?

The 101-format reflects our commitment to producing training material to help busy people learn or up-grade skills in a convenient way, respectful of their multiple commitments in life. There are no recipe approaches or cookie-cutter prescriptions for working with child witnesses and we don't want to imply that there are. But there is a lot to learn about this field and usually no post-secondary educational or training program teaches everything people want to know.

Table of Contents

10 Assumptions About Children as Witnesses and Preparing Children for Testimony (page 1)

10 Principles of Providing Service to Children as Witnesses (page 7)

10 Things We Know About Child Witnesses (page 12)

10 Key Points about Trauma and the Child Witness (page 16)

10 Steps in the Court Preparation and Support Process (page 25)

10 Accommodations to Court Procedures for Child Witnesses (page 30)

10 Components of Pre-court Preparation (page 34)

10 Things Children May Worry About (page 46)

10 Important Concepts to Explain (page 49)

10 Components of Court Support (page 52)

1 Final Thought (page 55)

Assumptions About Children as Witnesses and Preparing Children for Testimony

These 10 statements reflect our assumptions about children and helping them prepare for court testimony, based upon more than 20 years of experience helping child witnesses and also with knowledge of child development and the research literature.

1. Each accused person deserves a fair trial

The potential for conviction of an innocent person is ever present in the criminal justice system. While we aim to assist children as witnesses, no measure discussed here will detract from the right of an accused person to make full answer and defence against criminal charges.

2. Witness support is an important function in the court system

Our goal as court supporters – of adults or children – is not to see a case end in conviction. Our goal is to further the administration of justice by facilitating the conditions under which witnesses can provide “a full and candid account” of what they experienced, saw or heard. Only when triers of fact – usually judges and sometimes juries -- have access to complete and accurate evidence can they render a just verdict in a criminal trial.

RESEARCH FILE: Preparation of defence witnesses



While our focus in this guide is on complainants in criminal trials, witness support is not limited to the prosecution side. Defence attorneys may prepare clients to enhance their testimony delivery skills, and this article reviews the empirical literature on that topic. The author argues that such preparation is not coaching designed to fabricate evidence or mislead the court, nor is it always effective. However, the assumption is that adult witnesses can influence jurors' impressions of their credibility and persuasiveness through verbal and non-verbal presentation styles such as degree of emotion, eye contact, posture, and tone of voice. The techniques described in this 2002 article are neither discussed nor advocated in the guide you are reading.

Marcus T. Boccaccini (2002). What do We Really Know About Witness Preparation? *Behavioral Sciences & the Law*, 20: 161-189.

3. Children can be very good witnesses

At the Child Witness Project, in operation since 1987, we have watched thousands of children give court testimony. Children as young as four can tell a judge or jury what happened, with preparation, support and accommodations to match age and special needs.

RESEARCH FILE: How many child witnesses are there in Canada?



Statistics Canada reported that 75,000 children and teens were victims of police-reported violent crime in 2008. An unknown number of other children will witness crimes, including inter-parental violence at home or peer-to-peer violence at school. We don't know how many incidents lead to charges and prosecution, or how many cases require child testimony, but it is safe to estimate that tens of thousands of Canadian children face the prospect of testifying each year about inter-personal offences they experienced or saw.

Lucie Ogrodnik (2010). *Child and Youth Victims of Police-reported Violent Crime, 2008*. Ottawa: Minister of Industry [Catalogue no. 85F003M, no. 23].

4. Child witnesses are different than adult witnesses

Child witness support programs first appeared in the late 1980s in recognition of the fact that supporting child and most teen witnesses requires a specialized approach. All court witnesses face similar stressors, especially in cases involving inter-personal violence and/or intrafamilial offences. Like adults, children experience many aspects of the legal process as stressful, including case delays, adjournments, and the public exposure of testimony. Like adults, children may forget details, especially peripheral details, of the alleged offence. Like adults, they may misunderstand questions, freeze in the witness box, cry, or need a break. And many witnesses undergo cross-examinations that impugn their veracity or credibility. But young witnesses are different in several important ways, particularly their abilities to comprehend the legal system and its unique vocabulary and rituals, how they communicate and process information, how trauma symptoms are manifested and may affect their abilities to testify (see page 16), their limited capacity to advocate for themselves, and how any special needs dictate how you support them and how they testify. They are generally eager to please and want to help, but, with a limited vocabulary to explain themselves, they may feel frustrated when adults don't understand them. They may have more intense or distorted testimony-related worries compared with adults (see page 46). Younger children especially are not well able to gauge the passage of time and it can feel like years as the case wends its way through the legal system.



Q: I have supported many adult witnesses. What is different about providing pre-court preparation and day-of-court support to children?

A: Differences include the timing of your contacts, the amount and type of information collected, and the extent to which you individualize your approach. How you explain things will also be different. Also, keep healthy drinks and snacks on hand and there are some tools and visual aids that might be helpful including web sites and videos.

Timing issues

A child may need more of your time in the months before trial, reflected in a higher number of appointments than you might schedule for an adult. Repetition of information is necessary before they can both understand and apply it and you may need more time to get to know and understand them. Especially with younger or special needs children, you might start further in advance of the testimony day and have shorter appointments than you would for an adult. You may devote more time to the rapport building phase. Definitely arrange a court orientation tour prior to the day that testimony is expected (page 44). Each time a child is in the court environment, he or she is gradually desensitized to the otherwise strange and novel setting.

Information gathering for case planning

A child's age will influence your approach. The service provided to a four-year old looks different from that a 16-year old might receive. But developmental age is as important as chronological age and usually the only way to assess that is to meet the child in person. A lot of useful information can be learned from the parents or other caretakers and you might decide to seek information from third parties such as teachers or therapists. As we mention on page 7, the more you know about a child and the offence, the better prepared you are able to help.

Assessment of impact of the offence and implications for testimony

Ideally, you will know something about the alleged offence, but the objective features of an offence may correlate poorly with how a child is affected or how much support is needed. Emotional closeness to the accused is an important factor, for example, as is the family reaction to the offence and its discovery (page 10). When the victim is a child, the residual effects of a traumatic offence are more likely to be evident in the witness box than might be the case for an adult witness (see pages 16 to 24).

Assessment of testimony-related worries

Their worries and expectations about the process may be distorted, exaggerated or completely wrong, especially when expectations are shaped by televised courtroom dramas. Some children harbour distorted fears that would never occur to adults, like believing they will get in trouble if they don't testify well. Assess their court-related worries, as discussed on page 38. Children are more likely to feel responsible for case outcome and need help in understanding their role as witness (see page 35).

Individualized strategies

Based upon your experience of meeting the child, speaking with caregivers and collection of any third-party reports, devise a strategy to guide the preparation process. This includes an estimate of the number of sessions and determination of priorities and the focus of your efforts. For example, some children need lots of help with relaxation and stress-management in the courtroom. For others, that is less of an issue.

Use of testimonial aids

There is a presumption in law that every witness under 18 years of age can use a testimonial aid, unless its use would interfere with the proper administration of justice. As a court supporter for adult witnesses, you may have limited experience with testimonial aids and the other accommodations for child witnesses listed on pages 30 to 33. Learn the process to access testimonial aids, both the legal requirements and the dictates of local practice. At what point in the process is the request typically made in your jurisdiction? Is it done routinely or do you advocate on a case-by-case basis?

Convey material in age-appropriate ways

Children are concrete thinkers who are still learning English or French. They can misunderstand our instructions and questions, but may be embarrassed to admit that, feel confused and incompetent, or truly believe they understand us. Adjust your vocabulary and language to the child's age, using shorter sentences and a slower pace than you might use with an adult. Avoid idioms, jargon or legal terms, unless you explain them first in age-appropriate language (see page 49). Children are visual and experiential learners.

Liaise with the prosecutor

You may work more closely with the prosecutor when supporting a child witness than when you support an adult witness. Once you understand a child's special situation, developmental needs and unique vulnerabilities, a consultation with the prosecutor provides an opportunity to, for example, recommend more or earlier meetings with the child than might otherwise occur. Discussion of testimonial aids is best done early in the process, to allow for timely application, so provide your opinion on which aid is needed.

5. It's easier for us to adapt to their needs than it is for them to adapt to ours

Because of age or special needs or other vulnerabilities that pre-existed or were caused by the offence, children may not testify in the same way as adults. They may need more frequent breaks, for example, and they definitely need to have questions posed to them in age-appropriate language. Our work as court supporters will include the client-focused services of pre-court preparation and court support described in this guide. Equally important, we may have to advocate on their behalf with "the system" and help others be aware of and accommodate for special needs such as learning disabilities. Each child can testify to the best of his or her ability and the responsibility lies with adults to set the stage for that to happen. The onus should be on us to understand and meet a child's needs, rather than on him or her to adapt to the foreign environment of the courtroom. It's easier for us to adapt what we say and do than for them to adapt to a legal system designed for adults.

6. Each child witness has the right to the accommodations available by law

Court witnesses perform a public service, helping society respond to criminal behaviour, holding offenders accountable, and allowing remedial interventions to minimize the possibility of future victims. The laws of Canada, and those of many other countries, recognize the unique vulnerabilities of children and teenagers and provide for various accommodations and special measures for witnesses under 18 years of age. The measures statutorily available across Canada are listed briefly on pages 30 to 33 and include:

- The use of a one-way witness screen or the ability to testify from outside the courtroom via a closed-circuit video link (CCTV)
- The use of a "support person" to sit with or near a testifying child
- The ability to use a video-recorded statement as evidence-in-chief



In the first booklet of the "A Full and Candid Account" series, on page 7, find the 10-point Child Witness Project Statement of Basic Principles of Justice for Child Witnesses. It is an adaptation and extension of the 2003 *Canadian Statement of Basic Principles of Justice for Victims of Crime* developed by the Federal / Provincial / Territorial Ministers Responsible for Justice.

7. The "low tech" means of assistance are more important than the "high tech" means

Many people see closed-circuit technology as the pinnacle of effective assistance for a child witness. Indeed, as new courthouses are built, and older ones retrofitted, CCTV set-ups are found in an increasing number of jurisdictions. Portable systems are available in some parts of rural or remote Canada. And we do believe that CCTV-assisted testimony is the least stressful experience for witnesses. But there is a lot you can do as a court supporter without access to CCTV. Even when using a "high-tech" option like CCTV, don't minimize the importance of "low-tech" strategies. A smile or a kind word costs nothing. A small kindness such as a healthy snack or juice box costs very little. The Tool Box on page 5 lists some "low-tech" strategies for use anywhere. Provision of pre-court support in the months leading to a preliminary hearing or trial is more challenging in some contexts than others. Areas served by circuit courts are one such context, especially in the far north where court parties fly in the day before court convenes. The "low-tech" features of court preparation and support may be all you can provide.



Alison Cunningham (2009).
The Journey to Justice: A Guide to Thinking, Talking and Working as a Team for Young Victims of Crime in Canada's North.
London ON: Centre for Children & Families in the Justice System.

8. Witnesses bring their coping strategies to the courthouse

When a situation strains our ability to manage intense emotions or thoughts, we find ways to cope in the moment. Some coping strategies are healthy and helpful, like talking with a good friend, journaling, meditating or therapy. In contrast, coping can be problematic and harmful, such as emotional numbing, isolation, or misuse of substances such as alcohol or drugs. We say "helpful" because it works in the moment. We say "problematic" because some coping styles cause problems in the long run or show up in other stressful situations, like when testifying. Some witnesses find it difficult to think about details of the offence, let alone verbalize them. Trying not to think about it helps them cope. They may try and avoid reminders of the offence, often called triggers because they trigger or re-activate the feelings experienced at the time, which might include fear and panic. So testifying can be a challenging task, especially in the presence of the accused. Avoidant coping can show up as missed pre-court appointments, failure to appear on testimony dates, coming to the courthouse under the influence, recantation, silence, incomplete testimony or minimization of the events. We talk more about this later.

TOOL BOX IDEA: What we learn from trauma-informed treatment techniques



The book cited below is written by a therapist who uses a cognitive-behavioural intervention with stress-disordered children. In this method, a therapist will expect to spend at least six months of trust building before a traumatized child is ready to discuss the traumatic events. A child indicates his or her readiness by inviting the discussion. Unlike for adults, verbalizing the details is not necessarily cathartic or helpful for children. "Pressing" too soon or too hard for details can lead the child to shut down or even trigger a stress episode that could include, in the extreme, dissociation from the present. Nevertheless, he acknowledges a balancing act between healing and information collection. Healing is the therapist's goal but mandated authorities need information to inform decisions about apprehension and/or prosecution which could help keep the child safe. Safety is a prerequisite to healing.

Therapy for stress-disordered children helps them predict and understand their own stress reactions and gives them skills to self-soothe and cope with overwhelming floods of feelings and sensations. These features of trauma-informed therapy can be extrapolated to the role of court supporter:

- use a warm, calm and reassuring tone of voice
- don't get flustered, angry or nervous in front of the child
- be aware of your facial expressions: smile, when it's appropriate
- assure the child that he or she does not have to tell you about the offence
- give lots of positive feedback and affirmations
- impose and communicate a structure/agenda for your times together
- keep your promises (or don't make promises you cannot keep) including being on time for appointments
- provide choice where possible (see page 9)
- teach assertiveness skills (page 38) and relaxation skills (page 43)
- give permission to talk about any worries or fears (and normalize those worries)
- monitor the child for signs he or she is getting overwhelmed
- use subjective units of distress (described on page 24) to help children verbalize their stress levels
- connect the family with any local trauma-informed treatment for children: resolving trauma symptoms and teaching stress management skills will better prepare a traumatized child to face the prospect of testifying (see page 11)

In addition, the child must feel safe in the courthouse. Point out the safety features of the building and the measures in place to protect witnesses. Learn from the caregiver any signs that the child is getting stressed. And be prepared to advocate for the use of legal accommodations if these measures cannot adequately address a child's anxieties.

William E. Krill (2010). *Gentling: A Practical Guide to Treating PTSD in Abused Children*. Ann Arbor, MI: Loving Healing Press.

9. A prepared witness is a more effective witness

We know from our own life experiences that we better navigate a challenging task when knowing what to expect and perhaps having an opportunity to practice. Imagine taking a driver's test without first understanding the rules of the road, knowing the function of a steering wheel, or even appreciating why it is desirable to drive a car. The pre-court preparation process as described on pages 34 to 45 is designed to reduce anxiety, help children know what to expect, and teach some basic testimony-related skills. Court support on the day of testimony is described on pages 52 to 54 and includes helping the family wait in comfort and safety, explaining case developments as they unfold, and perhaps acting as a support person as the child testifies. Court preparation does not make testifying *easy*, it helps make it *easier*. A child who is prepared for his or her experience as a witness is better prepared to provide a complete and accurate account of what he or she experienced, heard or saw.

RESEARCH FILE: The importance of pre-court preparation



These authors surveyed people who prepare and support child witnesses in South Africa. Respondents made a distinction between court *preparation* (e.g., familiarizing the child with the courtroom and its procedures, explaining the child's role in the case, providing guidance for parents) and court *support*, stressing that they were separate but equally important functions. Pre-court preparation was seen as the key to enhancing the quality of child testimony.

L. Davis & J. Saffy (2004). Young Witnesses: Experiences of Court Support and Court Preparation. *Acta Criminologica*, 17(1): 17-23.

RESEARCH FILE: The scope of pre-court preparation and support



In this U.K. review, these activities were found to fall under the role of pre-trial supporters and court witness supporters:

- provide emotional support,
- educate and give information;
- understand the witness's views, wishes, concerns, and any particular vulnerabilities that might affect them during the criminal process (including the witness's views on testimonial aids or other special accommodations), and convey these to the prosecutor;
- agree on the manner and frequency of the provision of information;
- familiarise the witness with the court and its procedures, and with the responsibilities of the criminal justice system;
- support the witness through interviews and when attending court hearings;
- undertake court preparation and pass on information about the forthcoming trial;
- accompany the witness on a pre-trial visit to court;
- accompany the witness when their memory is to be refreshed (as when a video-recorded statement is viewed) but this should not be undertaken by a supporter who will accompany the witness while giving evidence;
- accompany the witness while they give evidence in court or from outside the courtroom (as when using in a CCTV link);
- liaise with family members and friends of the witness;
- liaise with legal, health, educational, social work and other professionals and act as an advocate on behalf of the witness;
- liaise with those offering therapy and counselling prior to a criminal trial; and
- arrange links with experts in any of the witness's specific vulnerabilities or difficulties, e.g. communication problems, learning disabilities, specific cultural or minority ethnic group concerns or religious priorities.

Office for Criminal Justice Reform (2007). *Achieving Best Evidence in Criminal Proceedings: Guidance on Interviewing Victims and Witnesses, and Using Special Measures*. London, U.K.: Office for Criminal Justice Reform.

10. Some children can't or shouldn't testify in court

It's not realistic to expect that all children who made police statements can – or should -- repeat that information in court, even with loads of support and accommodation. Age is one factor, both chronological age and developmental age. Some children are simply too young to testify. The existence of unresolved trauma symptoms is also something to consider (see pages 16 to 24). Testifying itself is a rigorous task not in the best interests of some witnesses. Even meaning to be helpful, we risk making matters worse by forcing highly traumatized children to describe an event they are trying hard not to think about. Also, there are some cases of domestic violence where children should not be placed in the position of testifying “against” a parent. Sometimes, the potential benefits of a criminal conviction are outweighed by the costs to the victim.

Principles of Providing Service to Children as Witnesses

We don't offer set prescriptions about preparing and supporting children for court testimony. Because each child is unique, there can be no cookie-cutter approach to the work. Also, the variation in resources and local practice across Canada means that the time and opportunity to engage in pre-court preparation will depend on many factors. However, these 10 principles can guide your work, whether you can meet the witness many times or if you have only a few hours on the day of testimony.

11. Be neutral

As we stated earlier, the goal of court support is not to gain a conviction. The goal is to put into place the conditions whereby each witness will testify to the best of his or her ability so the judge (or jury) learns about the alleged offence without unnecessary distress for the witness. Court supporters (unlike prosecutors and investigating police officers) will never discuss evidence with a witness. Nor will they offer an opinion on the veracity of the allegation or the desired case outcome. When using role play to strengthen question-and-answer skills, as discussed on page 39, pick an innocuous topic like a recent family trip or school event. When giving encouragement or feedback to a child after testimony, focus on the effort rather than the verdict or sentence. For example, it would be highly inappropriate to congratulate a witness for securing a conviction. A witness's job is to tell the judge what happened.

12. The more you know about the child, the better prepared you are to help

As we will discuss in the section on trauma, knowing the objective circumstances of an offence does not always help you predict how much support a child will need or how challenging he or she will find the task of testifying. But offence information is helpful to have. An intake session with a parent or guardian will uncover information on any special needs or learning disabilities, and how they are accommodated for at school. You can also learn about a child's unique testimony-related worries, trauma symptoms (and associated coping styles), and any family dynamics or other life stressors that may constitute added pressures in his or her life.

13. Tailor a strategy for each child

Using your observations and any information collected from caregivers or third parties, develop a strategy to fit that individual child's needs. One child may be fine with one pre-court preparation session and support on the day of court. Another child may need ten pre-court sessions. Generally, there are two approaches to court preparation: protection and empowerment. Some children benefit from a purely empowerment approach because, with some education and skills training, they can give direct evidence to the court. Some children need most to be protected from the stresses of court testimony, perhaps by a testimonial aid or other means of entering their evidence into the record without giving direct evidence. That might involve entering a video-recorded statement or using hearsay evidence, decisions about which are in the domain of the prosecutor. Your role as a court supporter is to discover which children need such protections and to communicate that information to the prosecution team.

14. Be honest

It is tempting to minimize or hold back information about the less-welcome aspects of a criminal prosecution, such as how much time may pass before the case is resolved. In the long run, it's best to prepare everyone for the realities of the legal process. Knowing what to expect is especially important for any witness experiencing symptoms of post-trauma stress. Predictability and structure are calming. Surprises, on the other hand, are disorienting and anxiety-provoking.

15. Start with the lowest common denominator

As every parent knows, you speak differently to a three year old than you do with a 13-year-old. As children mature, their vocabulary expands and they grow better able to grasp abstract concepts. In at least two circumstances, this might not be the case: people with delays in intellectual development and people affected by pre-natal alcohol exposure (Fetal Alcohol Spectrum Disorder, or FASD). For example, in a child (or adult) with developmental delay, expressed (spoken) and receptive (comprehension) language skills are out of sync with chronological age. You may or may not be aware of the existence, or the degree, of a developmental delay when first meeting a child. Signs of FASD are often invisible upon first meeting. In consequence, a person can appear to understand you when in fact they do not. Or they can believe they understand you, when they really don't. The same will be true for some people just learning English. We can overestimate their receptive language skills if their verbal proficiency seems good. When meeting a witness for the first time, choose your words carefully, as if speaking to someone younger, until you see evidence that you are being understood. Likewise, the effects of trauma may not be apparent. Follow the suggestions about trauma-informed intervention listed on page 5 at least until being certain they are not necessary.

TOOL BOX IDEA: Using concrete language



In our *Journey to Justice* resource, find guidance (pages 60 to 66) on using concrete language to question or explain things to children (e.g., use proper names and nouns instead of pronouns, avoid idiomatic expressions or jargon, etc.). You will also find suggestions for doing court preparation and support with witnesses who are affected by pre-natal alcohol exposure (pages 47 and 48). They include pairing information with pictures and diagrams, keeping meeting time short, watching for signs of “shut down,” using testimonial aids to aid focus, repeating important points often, and cueing.

Alison Cunningham (2009). *The Journey to Justice: A Guide to Thinking, Talking and Working as a Team for Young Victims of Crime in Canada's North*. London, ON: Centre for Children & Families in the Justice System.

RESEARCH FILE: Supporting learning disabled victims



This study involved interviews with victim service providers who had experience working with clients diagnosed with or suspected of being affected by fetal alcohol spectrum disorder (FASD). Respondents noted that the strategies useful with FASD-affected clients were generally applicable to clients with a communications or learning challenge:

- doing more hands-on activities;
- providing simpler materials;
- using pictures;
- using visual cues;
- taking several breaks;
- repeating information; and,
- asking the client to explain to the workers what they had just been told.

Also important: building trust, explaining things in plain language, encouraging an activity (e.g., drawing, squeezing stress ball) to aid focus while you speak, accompanying clients to appointments and arranging to have interviews in familiar places.

Charlotte Fraser & Susan McDonald (2009). *Identifying the Issues: Victim Services' Experiences Working with Victims with Fetal Alcohol Spectrum Disorder*. Ottawa, ON: Department of Justice Canada.



Public Legal Education & Information Service of New Brunswick and the New Brunswick Department of Public Safety, Victim Services Program (2005). *Picture This... A Journey Through the Criminal Justice System and Picture This... Helper's Guide*.

16. Provide as much choice as possible

Interpersonal criminal victimization is the ultimate loss of choice and control. That abusive dynamic interferes with a child's healthy development of self-identity and differentiation: the idea that I am my own person who can say no, disagree with others, tell people how I feel, ask for what I need, and exercise choice. Important in any therapeutic work with stress-disordered children is giving age-appropriate opportunities to exercise choice. This could be simple things, such as the choice between apple and orange juice, or between using this chair or that one. In the legal system, so many aspects are fixed and not amenable to choice. So find every opportunity possible for choice. For example, demonstrate the testimonial aids available locally and ask the child's preference. This principle is closely related to the idea, discussed later, that children need permission to be assertive with the lawyers who question them, like being able to say that a question is confusing. This is a skill you have to teach some children.

RESEARCH FILE: Providing choice for testimonial aids



In this Australian study, child witnesses fared best when given a choice to use (or pass up) CCTV testimony. Children who declined the option did as well as children who accepted the option and better than children for whom the option was not available.

Judy Cashmore (1991). *The Use of Closed-circuit Television for Child Witnesses in the ACT*. Sydney, AU: Australian Law Reform Commission.

17. Be experiential

Children learn in different ways than adults learn. They are visual and experiential learners who may neither comprehend nor remember purely verbal descriptions, especially of abstract concepts. Experiential learning is often contrasted to didactic or rote learning. Reading a book about how to ride a bicycle is an example of the latter. The ability to remember something involves two stages: encoding the information and retrieving it later. No one can encode and remember information they don't understand, so it's crucial to explain things in age appropriate language and demonstrate what you tell where possible. Pictures, videos and even toy courtrooms may be useful, depending upon the age. A court tour is especially helpful (page 44). Moreover, the principle of context-dependent memory suggests that a child will better remember and apply information in the courtroom when she learned and/or practised that information there. For example, an instruction (e.g., say "no" out loud instead of shaking your head) is more likely to be remembered -- and therefore applied -- when testifying. The same may be true when you teach question-and-answer skills (see page 39) in the witness box or CCTV room.

18. Let the child see the same faces

Seeing the same faces is important to building rapport and trust. For example, it disorients some children to undergo court preparation with one person and meet another person on the day of trial. In cases involving child witnesses, it is a recognized best practice for one prosecutor to see the case through from beginning to end. This guideline can also apply to court supporters. However, in circuit court contexts, it may be that preparation is necessarily provided by a local person (e.g., a police officer or teacher) and the court support is provided by someone in the court party.

RESEARCH FILE: Continuity of victim supporters



In this U.K. study, child witnesses and their parents described continuity of support as reassuring, but only 49% of children who met a supporter before trial saw the same person on the day of trial. Two-thirds of children who gave evidence via CCTV were accompanied by a person they had not previously met.

Joyce Plotnikoff & Richard Wolfson (2009). *Measuring Up? Evaluating Implementation of Government Commitments to Young Witnesses in Criminal Proceedings*. London: NSPCC.

19. Supporting parents and caregivers helps children

We focus here on the preparation of children, but fully acknowledge the crucial role of parents, grandparents or foster parents in supporting young witnesses before, during and after court. A caregiver who will give evidence benefits from the same preparation we provide to children. Educating parents on the court process and any relaxation techniques taught to the child means that this information and skills might be reinforced at home. Caregivers with clear expectations can help the children know what to expect. Caregivers who are confused, worried or scared might communicate those feelings to the child. We list some resources for parents on page 37.

RESEARCH FILE: The benefits of providing support to parents



The entire family is affected by the victimization of a child and a criminal trial can take an emotional toll on everyone. In reviewing the literature on parent/child attachment, these authors conclude that quality of that attachment can influence how a child interprets a stressful event (such as testifying) or how a child remembers a stressful event (such as a victimization). Children who are less well attached to a caregiver may experience greater stress during a stressful event than would children with a secure attachment. Knowing that parents have been blaming, rejecting their child or otherwise lack the capacity to provide emotional and practical support will suggest that professional supports may need to be augmented. They also note that most programs lack the resources to spend sufficient time with parents.

Emma Crawford & Ray Bull (2006). Child Witness Support and Preparation: Are Parents/Caregivers Ignored? *Child Abuse Review*, 15(4): 243-245.

RESEARCH FILE: Feedback from parents of child witnesses



Fourteen parents of child victims of sexual abuse described their experiences. Six themes emerged including parental loss of control (once a complaint was made) and the children being treated as adults (mostly because they were not permitted to use testimonial aids). Among the difficulties mentioned was a lack of information on case progress between the time a charge is laid until a preliminary hearing or trial date is set.

Ramona Alaggia, Elizabeth Lambert & Cheryl Regehr (2009). Where is the Justice? Parental Experiences of the Canadian Justice System in Cases of Child Sexual Abuse. *Family Court Review*, 47(4): 634-649.

TOOL BOX IDEA: Assessing family reaction to the offence and its discovery



The reactions of significant others to the offence and its discovery are enormously important factors in how children cope with the task of testifying. When the following factors characterize the reaction of a child's family, you may have to provide more support or find other people in the child's life to provide that extra support.

- disbelief or anger in reaction to the child's account of events
- blaming the child for being victimized
- minimization by others (e.g., "It wasn't as bad as what happened to me!")
- emotional support denied child and/or provided to accused
- rejection of child by family or other important people
- unwanted marital breakdown or other unwanted family change after child's disclosure (especially if child is blamed for them)
- messages like requests for secrecy that telegraph a sense of shame or blame
- parent is unavailable emotionally because child's disclosure triggered unresolved feelings about own childhood abuse

Children who experience these reactions may blame themselves more readily for the offence, regret disclosing, have a distorted sense of shame, and may obsessively worry about being victimized again. They may recant or remain silent in the witness box.

20. Pre-trial therapy can help the administration of justice

Sometimes parents are advised to postpone therapy until after the verdict, for fear of prejudicing the prosecution by contaminating evidence. What may arise is a conflict between the best interests of a child and the administration of justice. This is of greatest concern when a prosecution might last one year, or longer. Certain therapeutic approaches do risk contaminating evidence (e.g., hypnosis, some forms of group therapy). Adverse effects could take the form of undermining a child's credibility or the perceived reliability of the evidence and there is the perception at least that a therapist might influence memory through inappropriate questioning. However, decisions about needed therapy are not so much a yes/no choice as a decision about "what to address" and "how." In some cases, only with therapeutic support is it likely that a child can testify at all. We have seen young people hospitalized because of the emotional consequences of an offence or its discovery, often exacerbated by the stress of a looming trial. Suicides, or life-threatening attempts, have occurred. Stabilizing a child's mental health and providing stress-management skills will aid the Court. But sometimes it is not in a child's best interests to testify. Assessment by a therapist could aid in making this determination.

TOOL BOX IDEA: Working with therapists



A key assumption is put forward in this document from Scotland: decisions about a child's best interests are the domain of the parent or caregiver or, if he or she is old enough, by the child him or herself. This includes decisions about both the need for and timing of therapeutic support in the aftermath of a criminal victimization. They suggest that justice personnel should not discourage families from pursuing therapy referrals when needed. Guidance is provided to therapists to help avoid compromising a prosecution and also to recommend record keeping practices should further disclosures arise. A therapist should never provide court-preparation services. Likewise, a court supporter should never provide therapy. If you become aware that a potential witness is undergoing therapy, you may have to report that information to the prosecutor (depending upon your role in the system vis-à-vis the Crown Attorney's office). Seek guidance if unsure. If this information is learned by the prosecutor, it is disclosable to the defence side. A therapist could be called as a witness, possibly by the defence, if new information comes to light during counselling or the child's version of events changes in substantive ways. In therapy, some intervention targets will be present focused (e.g., self-esteem, anxiety, depression, suicidal or self-injurious behaviour, peer and family relationships) and not affect a prosecution. Some, on the other hand, might relate to the trauma of the criminal victimization or even the stresses associated with an upcoming trial. Therapy can help a child process feelings about an event without the need to discuss the particular event. Therapists can ensure that a child does not blame him or herself for what happened and facilitate a free narrative rather than ask closed-ended questions. As we discuss on page 5, a therapist's role is to heal rather than to probe for information. Approaches to be discouraged include group counselling where other potential witnesses are group members, group counselling where other children discuss their own traumatic experiences, family therapy aimed at discussing events that form the basis of a prosecution (especially if family members may be witnesses), and hypnosis.

Scottish Executive (2005). *Code of Practice to Facilitate the Provision of Therapeutic Support to Child Witnesses in Court Proceedings*. Edinburgh, U.K.: Scottish Executive.



Crown Prosecution Service (2001). *Provision of Therapy for Child Witnesses Prior to a Criminal Trial: Practice Guidance*. London, U.K.: Crown Prosecution Service and The Home Office.

International Bureau for Children's Rights (2009) *Handbook for Professionals and Policy Makers on Justice Matters Involving Child Victims and Witnesses of Crime*. Vienna: United Nations Office on Drugs and Crime.

What We Know About Child Witnesses

These ten observations are gleaned from the research literature because they have implications for pre-court preparation and day-of-court support.

21. Most children are testifying about someone they know

Although there is some variation owing to different sources of data, estimates are that 10% to 20% of criminal cases in which children testify involve someone the child never met before the offence. Children are usually victimized by or witness crimes committed by people they are related to or live with, neighbours, family friends, or people they meet in professional capacities. So there may be some degree of on-going contact, or the potential for contact, between the child and the accused. Safety planning with the family helps them feel protected from threats and retaliation, real or imagined. Finally, as described later, be prepared to explain the legal protections available after a verdict or other outcome, including peace bonds and contact with correctional authorities.

22. Children know more and more about the legal system as they get older

Children's knowledge of legal vocabulary increases with age, in part because of television. However, there is a difference between knowledge and ability to comprehend. Children may not start court preparation knowing these terms, but they can be taught with age-appropriate descriptions (see pages 49 to 51). It is also important to know that two 10-year-olds may have dramatically different knowledge. And some adults don't understand the legal system either.

RESEARCH FILE: Age and the ability to define legal terms



Using a survey of 360 children and adults, these authors observe that most four and five year olds have a rudimentary understanding of what police do and what the truth is. By age six to eight, most children can define a lie, a promise, what a judge does, what guilty means and what a court does. By the age of 11, most children know the concepts of witness, defendant, lawyer and evidence. By age 14, they can define trial, jury, and oath. "Prosecution" was the most difficult concept, not well understood until the age of 15 at least (and not understood by 2.5% of adults in this sample).

Catherine Maunsell and others (2000). What Happens in Court? The Development of Understanding of the Legal System in a Sample of Irish Children and Adults. *The Irish Journal of Psychology*, 21(3-4): 215-226.

23. Adults can overestimate how well a child understands the legal system

Adults can assume children know more than they really do or believe wrongly that they understood our words. So explain everything (even things you think they know already), monitor their comprehension (e.g., ask them to explain a concept back to you), and re-explain later those concepts that are especially important to know (then maybe do it again).

24. Children – like adults – can think they understand more than they do

Even once concepts are explained, children may think they understand when in fact they don't. A *homonym error* is to misunderstand a word with more than one meaning, as in "court" as a legal arena or a place to play sports or "crown" as a key actor in the court system or the hat worn by a king. Or thinking that "hearing" is something you do with your ears. An *auditory discrimination error* is to mistake an unfamiliar word for a similar sounding but more familiar word, as "a dress" for "address" or "jewellery" for "jury."

25. Children find testifying to be an extremely stressful experience

Many studies have documented both high levels of anticipatory anxiety in the months before a testimony date and high levels of anxiety on the day of testimony. As we describe on pages 46 to 48, some worries are correctable distortions and some are real but can be addressed through testimonial aids or by enhancing their capacity to manage stress. Anticipatory anxiety in children can manifest as sleep disturbances, lack of appetite, poor concentration at school, social isolation, somatic complaints such as tummy aches, apparent over-reaction to little problems that arise, agitation, etc. Symptoms can increase in frequency and intensity as the court date approaches and, as suggested in the next section, be more intense and debilitating in children who were traumatized by what they experienced or saw. As we have documented in our research, children vividly recall their worries and anxiety even years after testifying.



Child Witness Project (1993).
Three Years After the Verdict: The Social and Psychological Adjustment of Child Witnesses Referred to the Child Witness Project.
London, ON: London Family Court Clinic.

RESEARCH FILE: Retention of memories about testifying



In this study, 94 teenagers and young adults were interviewed approximately 14 years after they had been complainants in child-sexual abuse prosecutions (26 testified once, 11 testified more than once, 32 went to court expecting to testify but did not, and 25 did not expect to testify). The children ranged in age at the time from four to 17 years. Because of previous research on these cases, there was extensive documentation on the alleged offences, the family context, and the prosecution process and outcomes. The more often the children had testified, the more accurate was their memory of the legal process, independent of age. In addition, those children who had been most highly distressed while testifying (e.g., crying), had more vivid and accurate memories. These results suggest that the highly stressful act of testifying is a salient event and creates a strong long-term memory in children.

Jodi Quas, Kristen Weede, Gail Goodman and others (2010). Long-term Autobiographical Memory for Legal Involvement: Individual and Sociocultural Predictors. *Cognitive Development*, 25: 394-409.

26. Anxiety can be lessened by pre-court preparation and testimonial aids

It's important to address anxiety because stress compromises a person's ability to retrieve memories and be articulate, so it will inhibit a full and candid account from some witnesses. This is true for both adults and children. Various measures to address anxiety are presented in this guide, including helping people know what to expect, uncovering and addressing court-related worries, explaining the measures designed to protect witnesses (e.g., separate waiting rooms), and increasing question-and-answer skills so children feel more competent (and less frustrated) as witnesses. When needed and wanted by young witnesses, testimonial aids help reduce anxiety by blocking the view of the accused – one of the most frequently cited worries of witnesses – and other spectators in the courtroom. The fear of public speaking is a common one even among adults. Research on CCTV and child testimony confirms expectations that children feel less stressed when testifying outside the courtroom and also provide more effective evidence. It may not be possible to eliminate all anxiety from the experience. The context itself can be emotionally charged, as when a child's disclosure is followed by parental separation, residential moves, school changes, divided family loyalties, or significant decline in standard of living. Some observers also point out that a certain degree of anxiety is needed to sufficiently impress witnesses with the gravity of the situation.

27. Cross-examination is the most challenging part of testifying

Especially when video-recorded evidence is introduced, giving evidence-in-chief is a relatively easy process. Prosecutors are often trained in questioning children, perhaps had an opportunity to build rapport, and their role is to elicit a full and candid account of what happened. A defence lawyer, on the other hand, must create reasonable doubt in the minds of triers of fact by suggesting that a witness is lying or mistaken. Many observational studies of child testimony in Canada, the U.K. and elsewhere have documented various techniques used during cross-examination, including using complex vocabulary and syntax, long sentences, double-barrelled questions, double negatives, leading questions, extending the questioning over as long a time as possible, repeating questions already asked (to increase frustration and confusion), and adopting a confrontational or angry tone.

RESEARCH FILE: Children's experiences of cross-examination



In a New Zealand study where the testimony of 71 young witnesses was observed, two-thirds (65%) were accused of lying by the defence lawyer during cross-examination. Many children hadn't understood questions posed by the defence lawyer, true of 80% of young children and 71% of teenagers. Researchers observed tactics apparently designed to confuse and disorient the witness including the use of closed, leading questions, double negatives, complex vocabulary and sentences with multiple embedded clauses and complex grammatical constructions, and intense questioning on irrelevant details. Most defence lawyers (75%) were observed to switch rapidly from one topic to an unrelated one without cueing for the switch. The authors described these practices as compromising the fact-finding capacity of the court.

Kirsten Hanna, Emma Davies and others (2010). *Child Witnesses in the New Zealand Criminal Courts: A Review of Practice and Implications for Policy*. Auckland: Institute of Public Policy, Auckland University of Technology.

28. Some cross-examination styles reduce the accuracy of evidence

When interviewing children after cross-examination, a significant proportion report having misunderstood questions and/or feeling unable to say what they wanted to or meant. Especially in response to leading questions, both adult and child witnesses have been observed to change both peripheral and substantive details of their original testimony. In mock-court studies, where the "truth" is known by the researchers, children as old as 10 have been observed to shift away from accurate responses during cross-examination. The children most likely to move away from the truth were rated by their teachers as lower in self-confidence, self-esteem and assertiveness.



Rachel Zajac & Harlene Hayne (2003). I Don't Think That's What *Really* Happened: The Effect of Cross-Examination on the Accuracy of Children's Reports. *Journal of Experimental Psychology: Applied*, 9(3): 187-195.

29. Children can be taught to be more effective witnesses

As explained on page 15, research has demonstrated that children can be taught question-and-answer skills and how to ask for clarification when faced with questions they don't understand. These skills, in turn, improve the quality of evidence. Explain the role of a defence lawyer (page 50) and the rules for witnesses (page 35) and help the child understand the purpose of testimony including the consequences of responding incorrectly (typically through education about the legal process). Role play Q&A skills (page 39). Teach the child how to signal a lack of understanding and give them permission to be assertive with an adult in this special context.

RESEARCH FILE: "Training" children in effective Q&A skills



These authors note that children under the age of eight are not always aware when they have misunderstood a question or instruction. Most do not evaluate incoming messages for errors, inconsistencies or contradictions in the same way older children learn to. Moreover, they may not ask for clarification even when they do appreciate their lack of comprehension. They may guess the meaning by, for example, attending to the words they understood and ignoring the parts they did not. In the court context, child witnesses are often faced with semantically and syntactically complex questions, a situation exacerbated because the context is unfamiliar, the message possibly complex, and the issues under discussion abstract (as opposed to something they can see).

This study demonstrated that children can be trained to provide better answers to questions in a setting that approximates a legal context. Almost 200 children (ages 6 and 8) were interviewed about a staged event they witnessed at school two weeks previous. One third had been taught comprehension monitoring (CM) skills, one third were instructed to ask for a misunderstood question to be re-phrased, and one third were given encouragement (e.g., told to do their best). The CM training involved using video vignettes and role play to practise self-monitoring of miscomprehension using these steps:

- instruction on not answering a question that is not understood (often children need permission to do this in the face of adult questioning)
- practice on how to signal non-comprehension to an adult (e.g., put your hand up like in school)
- giving skills for how to respond (e.g., saying "I don't understand what you mean")
- appreciating that such a response could cause the adult to re-pose the question in a better way
- increasing awareness of the potentially negative consequences of answering a question you don't understand
- practice of the new strategy (e.g., adult asks increasingly more complex questions)
- adult feedback to discourage inappropriate responses like guessing and to praise efforts to seek clarification

All children were told that they might not understand all questions posed to them because some questions are easy and some are difficult. They were also informed that the interviewer was not present at the event. Children with CM training gave more correct responses to difficult questions than children in the other two groups. Each group performed the same on the easy questions. CM-trained children gave 45% fewer incorrect responses to all the questions (both easy and difficult) than children instructed to ask for the question to be rephrased and 56% fewer incorrect responses than children told to do their best. The 8-year-olds provided more correct responses (and fewer incorrect responses) on average than the 6-year-olds in all three groups. The authors conclude that children's interview performance can be enhanced by skill development and practice. They also recommend that adults match their language to the child's age.

Karen Saywitz, Lynn Snyder & Rebecca Nathanson (1999). Facilitating the Communicative Competency of the Child Witness. *Applied Developmental Science*, 3(1): 58-68.

30. Testimonial aids do not compromise an accused's right to a fair trial

There is no evidence to suggest that aids such as CCTV compromise the fact-finding function of a court. It is often believed that watching a witness's live testimony helps judges and jurors detect lying, but this idea has not been born out in mock-court studies. Adults are equally bad at detecting deception in both live or CCTV-mediated testimony. Nor has it been shown that jurors are more likely to infer guilt because a witness uses CCTV or a screen. Any differences found (e.g., CCTV or video-recorded evidence has less emotional impact) benefit the defence.

Key Points About Trauma and the Child Witness

Each witness has been affected in some way by the events they saw, experienced or heard. For some, the offence was serious enough to qualify as a traumatic event. For others, the cumulative effects of abuse over time are apparent in thoughts, actions, or feelings that suggest post-trauma stress reactions.

31. Some child witnesses will be experiencing post-trauma stress reactions

In the current edition of the *Diagnostic and Statistical Manual of Mental Disorders* (DSM-IV TR), there are two parts to the definition of "trauma exposure," to reflect the interaction between the nature of the event and the person's reaction to it. First, the person feared for his or her life or physical safety, or feared for the life or physical safety of someone else. Seeing the violent assault of a mother is an example of the latter. Second, the person's response involved intense fear, horror or helplessness (or, in children, disorganized or agitated behaviour). The term "complex trauma" refers to a series of events which are chronic or repetitive and which have a pervasive negative impact. Sexual abuse, for example, can constitute a complex trauma when there are multiple incidents, as might prolonged bullying at school. After a trauma exposure, when the person is safe, those intense and overwhelming feelings may resurface when the person is reminded about the experience by cues or "triggers" (e.g., a sight, sound, smell, place, person or type of person) or a thought that randomly pops into the person's head, unwanted and unbidden.



Q: What type of incidents are more likely to create post-trauma stress reactions in children?

A: Trauma reactions are variable and individualized in ways often unrelated to the objective severity of the offence. It is generally believed that some people are more susceptible to the negative effects of trauma than others. In children, innate temperament seems to play a role. A seemingly "minor" sexual touch by a loved and trusted adult has debilitating repercussions in some children, for example. Existence of other stressors also plays a role, because multiple stressors erode our ability to cope (e.g., the death of a loved one, war in the home country). As a general rule, these features of an event or series of incidents increase the likelihood of post-trauma stress reactions in children:

- being on purpose or deliberate (as opposed to accidental or a natural disaster)
- being sudden and unpredictable
- engendering intense and powerful feelings of helplessness or inability to escape
- being perpetrated by a loved or trusted figure in the child's life
- being perpetrated by someone on whom the child is dependent
- multiple incidents, especially spanning more than one development stage
- contact or hands-on abuse as opposed to visual exposure
- severe or intrusive abuse or assault
- physical injury or need for medical treatment
- triggering or associated with an unwelcomed life change like apprehension or parental divorce

Younger children, with few coping skills, are ill-equipped to shield themselves from the negative effects of trauma. The reactions of important people in the child's life also play a role.

32. Children may be more susceptible to being traumatized

Children are vulnerable to post-trauma stress reactions in the aftermath of a victimization. Their brains are still developing and adapting to match their environments, which for some children unfortunately include a toxic backdrop of abuse and neglect. Also, being physically small and dependent, they may feel trapped and helpless in situations from which adults could extricate themselves. They are taught to be compliant with adult requests or can be tricked or forced into compliance by a larger and smarter person. They might assume that no one will believe them if they "tell" or there is no safe person in their lives to whom they could disclose. As such, they may be exposed to abuse for longer periods of time. During a traumatic event, they are more likely to freeze than to fight or flee. This may be why children tend to develop disengagement coping strategies like emotional or mental numbing, both during and after a traumatic incident.



Bruce Perry (2001).
Maltreatment and the Developing Brain: How Early Childhood Experience Shapes Child and Culture.
London, ON: Centre for Children & Families in the Justice System.

33. A traumatic memory may be felt as much as remembered

To fully appreciate the power of trauma and post-trauma stress reactions, and how testifying might be affected, it is important to know that a traumatic memory is experienced physically and emotionally as well as mentally. According to researchers, trauma changes the nervous system and brain, especially likely in children because their brains are still developing. Moreover, a traumatic memory is stored in the brain in ways that impair the person's ability to stop thinking about it. When remembering the event, a trauma survivor's brain and body may react as it did when the trauma was occurring. This may include an internal chemical reaction that primes them for fight or flight or freeze. To think about the event is to re-live the feelings of helplessness, fear and panic.

34. The thought of testifying may trigger or exacerbate post-trauma stress reactions

Why are we talking about trauma here? Isn't that an issue for therapists and doctors? Court supporters know that post-trauma stress reactions will be an issue for some of their clients. But witnesses fall along a continuum. Everyone exposed to a traumatic event is upset by it to a certain degree but most people gradually feel better over time. In contrast, some people never start to feel better, at least not without therapy or intense effort to mask the thoughts and feelings with, for example, drugs or alcohol. And for others, the prospect of testifying will re-activate post-trauma stress reactions, at least temporarily. There are many potential triggers associated with testifying, like being asked to think about the offence, being asked to describe it, seeing people associated with the offence (not only the accused but also helpers such as police officers), watching the video-recorded statement made to police or a child-protection agency, and writing a victim impact statement. Some people suggest that anyone whose brain is changed by trauma will more readily and quickly enter an alarm state like fight, flight or freeze, when in other stress-filled situations, such as testifying. Or they can feel threatened more intensely and more quickly from negative interactions that most others would slough off, as may occur during cross-examination. Being under stress can impair anyone's memory, so recall of events can be compromised. In short, it is imperative that victim supporters understand how trauma can manifest in the courtroom.



James Hill (2003).
Victims' Response to Trauma and Implications for Interventions: A Selected Review and Synthesis of the Literature.
Ottawa, ON: Department of Justice Canada.

35. Signs of post-trauma stress manifest in children differently than they do in adults

Most of what we know about the effects of trauma exposure comes from work with and study of adults. In adults, there are three primary clusters of thoughts, behaviours, feelings and sensations:

1. Hyper-arousal (also called hyper-vigilance): a tense or anxious feeling that something bad will happen, a feeling of needing to be "on guard," perhaps difficulty relaxing and sleeping, irritability, possible angry outbursts, over-sensitivity, difficulty concentrating. All these things are more likely in the presence of a reminder or trigger.
2. Re-experiencing: having unwanted images or thoughts pop into one's head (intrusive thoughts), feeling a flood of overwhelming emotions as if the trauma were happening again, nightmares related to the trauma.
3. Avoidance: trying hard to stay away from reminders, even fighting sleep to avoid nightmares.

These are sometimes called secondary, or post-trauma, responses and reflect how the brain (and therefore the body) responded and adapted to the original event. You learn about trauma in adults primarily because they tell you about it. As a general rule, compared with adults, children are less well able to mask the legacies of trauma or access a repertoire of previously learned coping skills. So you might see signs of post-trauma stress in their words, actions, physical presentation or how they interact with others. Their social skills may suffer, for example, alienating them from peers and showing up as social isolation. Children have a small repertoire of coping strategies to call upon both during a traumatic event and in the aftermath. In contrast, adults typically developed coping strategies in their pre-trauma lives which they can apply both during the trauma and when managing its later effects. These include information collection and help seeking.



Q. Will the act of testifying traumatize a child?

A. Testifying, or specifically cross-examination, is sometimes called secondary victimization or secondary trauma. Testifying is almost always difficult and usually very stressful, but so far no research has confirmed that testifying is emotionally damaging – at least for most children. We often use the word “traumatized” loosely to mean upset or shocked or distressed. Recall, however, that a trauma is by definition an event during which a person fears for their life or safety and also feels powerless and vulnerable.

Our own research, and that of others, shows that testifying (and anticipating the act of testifying) typically elevates anxiety symptoms. But elevated anxiety will normalize in most children once the court case ends. Unwelcome case outcomes, such as acquittal, can retard this process as can the negative reactions of significant others previously described on page 10. Some consequences of prosecution, many of which might be unwelcome (e.g., parental divorce, changing schools, residential moves, incarceration of a loved one), may also cause on-going stress. In addition, a previously traumatized child may be more likely than another child to be triggered into a fight/flight/freeze reaction when exposed to the many potential reminders at the courthouse. It is for these reasons that pre-court preparation addresses testimony-related worries and fears, desensitizes witnesses to the courthouse context, teaches stress reduction skills, helps them understand the protections in place to keep them safe, and clarifies the role of a witness so they do not feel responsible for court outcomes and other decisions. Some people note that testifying can be cathartic, but that reaction is not commonly seen in child witnesses.

TOOL BOX IDEA: Stress signs in children with post-traumatic stress disorder



Make note of any of these behavioural, emotional or cognitive signs when working with a trauma-exposed child. William Krill, an experienced child therapist, notes that some ways children cope with trauma may be dismissed as developmentally normal behaviour or mistaken for symptoms of other diagnoses such as attention deficit disorder. The difference in stress-disordered children is in a known history of trauma, the presence of signs in all six categories, and observing the signs to be more intense, frequent and longer-lasting than expected for a child of that age.

Re-experiencing

Intrusive dreams or nightmares, intrusive thoughts of the trauma during the day, physical agitation, anger/rage, severe upsets over subjectively small issues, enuresis (bed wetting) or encopresis (soiling), reenacting the trauma in play, hiding, being physically aggressive or combative, complaining about wounds or boo-boos you cannot see, talking about details of the trauma.

Avoidance, Numbing Detachment

Avoiding discussing the trauma or people associated with the trauma, lack of empathy or sympathy for others, bullying or hurting others with no remorse, not being connected to anyone, ignoring other people (their feelings, statements, directives, conversations, offers of assistance), emotional numbing, self-harm or disregard for danger or injuries, non-age appropriate play, cruelty to animals, inability to focus, being overly submissive, inability to describe their own emotions, consistently misinterpreting what others are saying, social isolation, not being able to remember obvious time lines or events.

Increased Arousal

Physical agitation or aggression, trashing their toys, clothes or room, door slamming, foul language, hyperactive, hyper-reactive, easily startled, hyper-vigilant, evidence of fight or flight stance, feelings of helplessness, sometimes looking frozen, glassy eyed, zombie-like, dilated pupils, lack of focus or attention, oppositional or defensive, sexualized behaviours, argumentative, hiding (self, food, soiled clothes), easily brought to tears, cannot seem to calm down for hours upon hours.

Psychological Changes (compared with before the trauma)

Age-regressed behaviours, heightened vulnerability, cycling through emotions, memory difficulties, chronic fatigue or physical complaints, risk taking, heightened impulsivity, statements of despair, can't seem to comfort self.

Relational Problems

Mistrust, heightened accusations against others, secretive, guarded, self-defeating interactions, being child-like or being precocious, fears of abandonment or being left behind, increased boundary problems, tries too hard to fit in, complains about being excluded by others, argumentative for no apparent reason, bossy or parentified, clingy and attention seeking, excessively seeking out nurturance or comfort, "push-pull" reactions to intimacy, refusal of assistance or affection when offered.

Ego Structure

Blaming themselves for the traumatic events, talking about self-harm, seeming to "fall apart" easily, making shame, guilt and low-self-esteem statements, having multiple names for themselves, alternating between extreme stubbornness and excessive vulnerability.

William E. Krill (2010). *Gentling: A Practical Guide to Treating PTSD in Abused Children*. Ann Arbor, MI: Loving Healing Press.

TOOL BOX IDEA: Stress signs in teenagers with post-traumatic stress disorder



Because teenagers appear more mature and informed than they really are, their vulnerabilities often go unrecognized. Like adults, some can mask the signs of post-trauma stress or their symptoms are dismissed as typical teenaged behaviour. Don't assume they can testify without a testimonial aid because of their age. Some teenagers can testify in open court, some think they can testify but change their minds at the last minute, and some cannot speak about the offence even with intensive support. Looking for signs of post-trauma stress helps you predict how a seemingly confident teen may react in the witness box. As with children, characteristics of the offence may not be a good guide to how a teen was affected.

In older children and teens, signs of post-trauma stress look different than they do in children, sharing some common features of the stress-reactions in adults described earlier. These older children can access a wider range of coping strategies, some of which will trouble the adults who care about them. So look for signs of concerning coping. When a teenager has suffered or witnessed a traumatic event, an observant caregiver could notice these before-and-after changes:

- social isolation and changes in previous patterns of contact with peers
- withdrawal from family interactions (e.g., spending more time alone)
- irritability, moodiness, depression, seemingly obsessive worrying
- easy to anger, perhaps out-of-proportion to objective context
- decline in ability to concentrate, perhaps followed by sudden decline in grades
- decline in involvement in favourite activities (e.g., hobbies, sports)
- sleep disturbances (including avoiding sleep)
- decline in care for appearance and hygiene
- use of drugs or alcohol, or increase in use
- sexual promiscuity

Many of the factors are common in teenagers, like moodiness and irritability, so it's important to look for a clustering of issues and their emergence after a traumatic incident.



Lisa Heslop, Corinne Enright, Alison Cunningham, Pam Hurley & Lynda Stevens (2006). *When Teens Hurt Teens: Implications for Child Witness Support Programs*. London, ON: Centre for Children & Families in the Justice System.

36. Everyone who suffers post-trauma stress symptoms finds ways to cope

When a past event is too painful to think about, we need to put its memory out of our mind just to function day-to-day. That's difficult when we encounter reminders, or triggers, of what we don't want to think about. Trauma survivors usually try hard to avoid potential triggers. So coping through avoidance is common (i.e., avoiding reminders of the trauma or its context). Despite a good effort, it is not always possible to avoid all reminders, or thoughts unexpectedly pop into the person's head. When intense and negative thoughts and feelings are activated by triggers or intrusive thoughts, a trauma survivor needs to find ways to turn them off. How we do that is called "coping," the thoughts, feelings and actions we use to calm ourselves and feel better when we feel stressed, overwhelmed or flooded with unpleasant emotions. Coping strategies to be encouraged in trauma survivors include meditation, yoga, counselling, journalling, massage, exercise, deep breathing, talking with a good friend, listening to soothing music, reading positive self-affirmations, and even distractions like video games or watching television. Concerning methods of coping include use of drugs or alcohol, cigarettes, overeating, self-harm and other risky choices. The methods usually "work" in the moment, but may have a cost in the long run, especially techniques such as emotional numbing, self-harm, substance use and early home leaving by teens.

RESEARCH FILE: Seeing “problems” of older children and teenagers as “coping”



This clinical study examined how teenagers cope when living with violence at home but these signs may be seen in youth who struggle with a variety of family adversities including abuse. Many seem, on the surface, to be oppositional behaviour or wilful disregard of adult authority. These authors observe that some types of engagement coping are healthy, such as reaching out for help or re-directing negative emotions into positive activities such as exercise, journalling or art work. Others are cause for concern.

CONCERNING ENGAGEMENT COPING STRATEGIES

Physical Avoidance

- going into another room, leaving the house during a violent episode
- finding excuses to avoid going home / running away from home

Taking Charge Through Caretaking

- protecting brothers and sisters from danger
- being like a mother to brothers and sisters
- being like a mother to his or her mother

Trying to Predict, Explain, Prevent or Control the Behaviour of an Abuser

- thinking "Mommy has been bad" or "I have been bad" or "Daddy is under stress at work"
- thinking "I can stop the violence by changing my behaviour" or "I can predict the violence"
- trying to be the perfect child
- lying to cover up bad things (e.g., a bad grade) to avoid criticism and worse

DISENGAGEMENT COPING STRATEGIES

Mental Blocking or Disconnecting Emotionally

- numbing emotions or blocking thoughts
- tuning out the noise or chaos, learning not to hear it, being oblivious
- concentrating hard to believe they are somewhere else
- drinking alcohol or using drugs

Making it Better Through Fantasy

- planning revenge on abuser, fantasizing about killing him
- fantasizing about a happier life, living with a different family
- fantasizing about life after a divorce or after the abuser leaves
- fantasizing about abuser being “hit by a bus”
- hoping to be rescued, by super heroes or police or “Prince Charming”

Looking for Love (and Acceptance) in all the Wrong Places

- falling in with bad friends
- having sex for the intimacy and closeness
- trying to have a baby or getting pregnant to have someone to love you

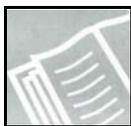
Crying out for Help

- suicidal gestures
- self-injury
- lashing out in anger / being aggressive with others / getting into fights

Alison Cunningham & Linda Baker (2011). The Adolescent's Experience of Intimate Partner Violence and Implications for Intervention. In Sandra A. Graham-Bermann & Alytia A. Levendosky (eds.), *How Intimate Partner Violence Affects Children: Developmental Research, Case Studies, and Evidence-based Intervention*. Washington, DC: APA Books, pp. 247-272.

37. Trauma-related coping can reduce a witness's perceived credibility

Some coping strategies put victims in a bad light with jury members who are unfamiliar with trauma. A trauma survivor may develop drug or alcohol dependence, for example, or leave home to live on the streets. So the effects of trauma can manifest in counter-intuitive victim behaviour: the gap between what the average person thinks a victim SHOULD do and what victims ACTUALLY do. In other words, people coping with trauma may do and say things that don't make sense unless we use a trauma lens. For example, a victim may describe the traumatic event using a flat, unemotional tone, as if recounting a mundane event. Anyone who expects victims to cry could assume the person is lying. A sexual abuse victim might be highly sexually active, perhaps even working in the sex trade. The average person assumes a victim wants to avoid sexual contact, but what looks like "promiscuity" may be a person's attempt to take charge of their sexuality or reflect a belief that sex equates to love or to acceptance. Counterintuitive behaviour includes apparently illogical initial reactions to the offence. For example, sexual assault victims (adults and children) probably won't run and tell the first person they meet, may not tell anyone for many years (if ever), and can forget details of the assault. Victims of domestic violence may stay with an abusive partner for many years, leave and reconcile several times, delay reporting, recant allegations, minimize injuries, make inconsistent statements, engage in self-defensive behaviours that appear to be aggression, request – even beg – for charges to be dropped, or refuse to testify. These choices are typically made to preserve their safety, although they look to an uninformed observer like choices that put them at risk. In children, you may see continued loyalty and affection to a person alleged to have hurt them, especially a parent or other cherished relative. This reaction is normal, if paradoxical, and is not proof that the allegation is untrue.



Jennifer Gentile Long (2007).
Introducing Expert Evidence to Explain Victim Behaviour in Domestic Violence and Sexual Assault Cases.
Alexandria, VA: American Prosecutors Research Institute.

38. Trauma reactions and coping can manifest in the courthouse

Some post-trauma coping strategies may be apparent during the court preparation phase and again on the day testimony is scheduled. Traumatized people try hard to avoid reminders, so even thinking about a meeting for pre-court preparation can be a trigger. In teenagers, you may see missed appointments, coming to appointments "high" or under the influence, quickly escalating anger responses, or a defiant cocky attitude, especially when someone is trying to focus them on thinking or talking about the offence or the accused. In the extreme, coping through avoidance can include self-harm or even suicide attempts as a trial date approaches. Some young children cope with a toxic home environment through "tuning out" the noise and chaos. Getting, and holding, their attention may be challenging. Any witness who feels stressed or emotionally heightened may not well absorb information or verbal instructions, so it seems like they are not remembering what you tell them. On the day of testimony, victims find many potential triggers in a courthouse. Certainly, seeing the accused can be a trigger, especially if it is sudden and unexpected like in the corridor or public washroom. Seeing family or associates of the accused can also be upsetting. Seeing anyone associated with the event (even helpers such as police officers) can also be triggering, as is watching a video-recorded statement, and being directed to think about the crime during testimony or when writing a victim impact statement.

TOOL BOX IDEA: Monitoring your own reactions to trauma exposure



Be aware of your reactions to repeated exposure to testimony about traumatic events. The cumulative effects of vicarious trauma affect your health and emotional balance. Some effects erode your effectiveness as a sympathetic helper.

Jan Richardson (2001). *Guidebook on Vicarious Trauma: Recommended Solutions for Anti-violence Workers.* Ottawa, ON: National Clearinghouse on Family Violence.

RESEARCH FILE: Seeing the accused in the courthouse



In this U.K. study, over 40% of young or vulnerable witnesses saw the accused in the courthouse, despite the near universal availability of separate waiting rooms. The most common locations of sightings were in the corridor outside the courtroom, in the washrooms, in the cafeteria, or on their journey to or from the courthouse.

Becky Hamlyn *et al.* (2004). *Are Special Measures Working? Evidence from Surveys of Vulnerable and Intimidated Witnesses*. London, U.K.: The Home Office.

39. Witnesses can have vivid or impaired memories of traumatic events

The ability to remember something involves two steps: encoding the information into memory and retrieving the information later when needed. When experiencing a traumatic event, our bodies release stress hormones as a fight or flight response to a threat. For this and other reasons, the parts and processes of the brain that affect memory encoding and retention may be affected. For example, the brain's reaction to a trauma may affect how a memory is transferred from short-term to long-term memory. This process may be what causes unwelcome and involuntary thoughts of the event – and an associated flood of emotions – that come randomly or when cued by triggers. It may affect ability to retrieve the memory when wanted, especially true for peripheral details. In the case of a severe traumatic event, a few people develop partial or complete amnesia. On the other hand, there is much evidence to suggest that most people, including children, have more vivid and enduring memories of traumatic events than of mundane events, especially one-time traumatic events. They are more likely to remember something that happened to them directly than something they witnessed.



Andrea Follmer Greenhoot & Sarah Bunnell (2009). Trauma and Memory. In Bette Bottoms, Cynthia Najdowski & Gail Goodman (eds.), *Children as Victims, Witnesses, and Offenders: Psychological Science and the Law*. New York: Guilford Press, pp 36-56.

TOOL BOX IDEA: Trauma-informed court preparation



Exposing a child to a painful trigger associated with a traumatic event – like seeing the accused in the courthouse – can cue stress episodes in traumatized children. When a person is under stress, the memory retrieval process can be compromised. While post-trauma stress reactions will impair some witnesses' ability to provide a full and candid account, you cannot always tell which witnesses will be affected. It is common today to see the phrase “trauma-informed therapy.” As court supporters, we cannot talk with witnesses about the content of evidence, but we can use a trauma-informed court preparation approach with everyone:

- assume any witness you meet might be struggling with post-trauma reactions
- use the suggestions listed on page 5 for working with traumatized children
- monitor for signs of overwhelm such as rapid breathing, vacant stare or dilated pupils (and use subjective units of distress, described on the next page, to help a child tell you when he or she is getting overwhelmed)
- reassure witnesses that we all sometimes forget things that happened in the past, especially peripheral details like what we wore at the time (children may worry about getting into trouble for not remembering everything)
- stress the rules for witnesses from page 35 (e.g., say only what you remember, don't guess, and it's okay to say “I don't remember”)
- victimized children often lose trust in adults, for good reason, so keep your word, don't promise anything you cannot deliver, and be honest
- offer the option of testimonial aids to ALL witnesses, even the teenagers

TOOL BOX IDEA: Articulating stress levels using the SUD Scale



With children old enough to understand the concept of a 1-to-10 rating scale (typically age eight and up), the SUD level provides a framework for verbalizing anxiety level and changes in anxiety level. “SUD” means Subjective Units of Distress. This technique can also be demonstrated to caregivers for practice at home in other situations, such as preparing for an exam. First, ascertain if the child or teenager is familiar with the concept of a 10-point rating scale (or use a 5-point scale if necessary for younger children):

Think about a scale of 1 to 10. One is completely calm and relaxed.
Ten is where you are so upset that you can't stand it and you want to jump up and run out of this room.

Use the SUD scale in a variety of ways. For example, you can ask: What number do you feel right now? ... when you think about testifying? ... when you think about seeing the accused? When you teach relaxation techniques, asking about SUD levels helps you gauge the effectiveness of your efforts.

TOOL BOX IDEA: Are your services trauma-informed?



The authors of this manual make several observations about working with adults in social or health service settings:

- services designed to be helpful can inadvertently be distressful to people with post-traumatic stress disorder (which they estimate to be about 10% of clients of health and social services)
- a client's behaviour can be misinterpreted as non-compliant, resistant or controlling
- our reactions as helpers can be anger, confusion or a feeling of being manipulated
- communication breakdown and frustration may be the result

There is a checklist to rate if a professional or a service-delivery context is “trauma-informed.” They list qualities essential in people who work with trauma survivors and provide service guidelines. The first stage in trauma-informed treatment is safety and stabilization to help people contain difficult emotions, which is a process that may occur even before a person is able to speak about past events. Help witnesses feel safe in the court building.

Klinik Community Health Centre (2008). *Trauma Informed / The Trauma Toolkit: A Resource for Service Organizations and Providers to Deliver Services that are Trauma Informed*. Winnipeg, MB: Klinik Community Health Centre.

40. There is some good news about trauma treatment

Most people who experience or see a traumatic event will suffer an acute stress reaction in the immediate aftermath, but symptoms such as elevated heart rate, dizziness, anxiety, inability to concentrate, confusion, or a sense of detachment usually subside. Most people do not go on to develop the more persistent and debilitating symptoms associated with post-traumatic stress disorder (PTSD). The second type of good news is that we are getting increasingly better at therapeutic responses to post-trauma stress reactions, especially when intervention is delivered in a timely way. While a person is forever changed by trauma, survivors can learn or re-learn to cope and manage thoughts and feelings associated with the event. In children, early identification and therapy can re-calibrate a child's sense of the world as a safe and predictable place and increase or build competency in emotional self-regulation. Discovery of the offence while the victim is still young provides an opportunity for healing, hopefully to forestall some of the more debilitating consequences of long-term, unresolved trauma reactions.

Steps in the Court Preparation and Support Process

This section offers an overview of the 10 steps of helping a child who might testify.

41. Find and offer service to every family early in the process

We recommend contacting the family soon after charges are laid, typically by letter. So it is important to have a system in place to flag all new criminal cases where a child's testimony might be needed. Early identification of these cases is a commonly recognized aspect of good practice. This goal is more easily accomplished in some jurisdictions than in others. The intent is to permit enough time for an adequate number of pre-court sessions for any and all child witnesses. There will inevitably be times when you first meet a child on the day testimony is required. This is a highly undesirable development because preparation is rushed and there may not be sufficient time to secure the use of any needed testimonial aids or arrange a court orientation tour.

TOOL BOX IDEA: Gap analysis for child witness cases and referrals



At the Child Witness Project in London, Ontario, we have memoranda of understanding with all police services in our catchment area. Investigating officers refer to us every case involving a complainant or witness under 18 years of age. Because of this system, we receive about 500 referrals each year. This U.K. document recommends conducting a "gap analysis" to assess existing procedures for identifying cases for timely referral to victim/witness support. It is assumed that early contact with young witnesses facilitates timely provision of information to the families and also early assessment of a child's special needs. Determine the number of criminal cases where a child could act as a witness over one year. What proportion of those families were not offered pre-court services? Why not? Or work backwards. When a family attends the courthouse to testify without having had pre-court services, determine why not or why the family opted against using pre-court services. The goal is to offer services to 100% of families and also to identify and address barriers to service access.

Criminal Justice System (2009). *Young Witness Support / It's in Your Hands: Guidance on Setting Up Local Services to Support Young Witnesses*. London, UK: Office for Criminal Justice Reform.

RESEARCH FILE: Why child witnesses sometimes don't get pre-court preparation



In this U.K. study, 44% of young witnesses neither met a supporter before the day of trial nor had a court orientation tour prior to that day. At the same time, 84% who did have a court visit said it helped them feel more confident and aware of what to expect and 95% who met a supporter before trial said it helped them feel better about going to court. Most families were offered services, including a visit to the court (offered to 76%) and a meeting with a court supporter (offered to 50%). Parents who declined the offer said that they did not want the child reminded about court unnecessarily, the appointment time was not convenient, or the courthouse was too far away or transportation was a barrier. A few parents did not fully appreciate how helpful pre-trial services might have been until they showed up for the trial. It was also learned that 44% of witness support programs did not receive, on a systematic basis, notice from the police about each and every case involving a child witness. Without this notice, the need for child testimony was learned about only when the family appeared for trial. Sometimes this was because families had not wanted the police to pass their contact information to the witness support service.

Joyce Plotnikoff & Richard Wolfson (2009). *Measuring Up? Evaluating Implementation of Government Commitments to Young Witnesses in Criminal Proceedings*. London, UK: National Society to Prevent Cruelty to Children.

42. Pass along information on case developments as they occur

Research into the preferences of crime victims shows that they want to be kept apprised of case developments. By contacting families early, they know whom to call for information and with questions. Keep in touch as the case evolves, with reports of adjournments, pleas, Crown assignments, and other developments. In some jurisdictions, this responsibility falls to the investigating officer so clarify "who-does-what" to ensure that no family falls through the cracks.

RESEARCH FILE: Case processing time in adult criminal cases



Statistics Canada data suggest that about 10% of adult criminal cases are resolved through a trial. One cannot discern from these data how many cases scheduled for trial will end with eleventh hour guilty pleas or withdrawal of charges. However, our experience suggests that witnesses come prepared to testify in perhaps another 10% of cases or will have testified at a preliminary inquiry before a guilty plea was entered. Even with a guilty plea, some cases take upwards of a year to be resolved. When the most serious charge was sexual assault, the average days to case resolution was 399 days, or almost 14 months. For the category of "other sexual offences" (including sexual interference and sexual exploitation) the average was 384 days. Robbery was 290 days, common assault was 188 days and the more serious assaults took 261 days on average. Overall, crimes against the person took an average of 233 days to be resolved. Cases took twice as long if resolved through trial. Other features that lengthened time to resolution included the need to issue bench warrants and the processing of multiple charges. Cases processed through the youth criminal courts are likely concluded faster.

Jennifer Thomas (2010). Adult Criminal Court Statistics, 2008/2009. *Juristat*, 30(2) [catalogue no. 85-002-X].

43. If a trial seems possible, conduct an intake meeting

If a guilty plea does not seem likely, you will want to begin the pre-court preparation process because the child or children may end up testifying. In our jurisdiction, we initiate this process with about 40% of our referred cases. Once a preliminary hearing or a trial is scheduled, arrange an intake appointment for about eight to ten weeks prior. We already noted above that you might spend more time learning about a child and building rapport compared with the time typically spent with adult witnesses. In a first meeting, watch for clues to the child's temperament, comfort separating from caregivers, attention span, sophistication of vocabulary relative to age, question and answer skills (e.g., ability to provide basic personal information when asked), and overall maturity level. Caregivers can tell you about special needs such as learning disabilities and how best to accommodate them (e.g., some children better understand information when listening with one ear versus the other). You may ask for permission to gather information from third parties such as teachers or therapists. Learn about nap times, meal routines and any medications. Mood, behaviour and attention span can vary according to hunger, fatigue or the dosage schedule of some medications. As described on pages 16 to 23, start to think about how any post-offence trauma symptoms could manifest at the courthouse. If necessary, a referral for trauma-informed therapy may help (see page 11).

44. Begin pre-court preparation

The steps involved in court preparation are described on pages 34 to 45) and include education on the court process and legal terminology, education on the roles of key people in the courtroom, clarification of the "job" of a witness, assessment of any court worries (and correcting or addressing them), teaching of courtroom etiquette and the rules for witnesses, practice of question-and-answer skills through role play, teaching of basic assertiveness skills, teaching of stress reduction and relaxation skills, court orientation tour, and advocacy with the prosecutor for any testimonial aids from which this child might benefit. There is no set number of sessions for pre-court preparation: play it by ear with each child. Some need one or two sessions. A few might need ten sessions.

TOOL BOX IDEA: Desensitization to the court setting



Conduct as many pre-court meetings as possible in the courthouse or the building where court convenes. Repeat visits desensitize a child to the setting, and also the security screening used in some courthouses. By the day of testimony, the child is well used to the environment and it all seems less strange and intimidating.



Q: Does each and every child need a full course of court preparation?

A: No, but you never know in advance who needs more and who needs less until you meet them. For example, age is not always a good indicator of how much support is needed. Some young children testify with confidence after minimal support and some teens require 10 pre-court sessions. Some children need repetition of key concepts and skills before they can both remember and apply them. Others pick them up quickly. Poor family reaction to the disclosure (page 10) suggests more support is required. Having an intake appointment about two months prior to a scheduled testimony date allows you to make this assessment early enough to provide more sessions to those who need more.



Q: Where I work, the typical standards of “best practice” are simply not realistic. What is the best “acceptable minimal practice” of priorities for when you have little time and few resources?

A. When you have few resources and little time, it is crucial to triage cases so you devote more time to the most needful witnesses. Abandon the idea that you can give everyone the same attention. One way to determine “needful” is to consider the role of a conviction in maintaining safety for a child. Could an acquittal put this child at risk for harm? Those are the cases where your efforts are most needed. These issues are most important to get across: the role of a witness and rules for witnesses (page 35), permission to be assertive (page 38), the role of the judge (page 50) and correction of distorted court-related worries (page 37). A court orientation tour is recommended for every child (page 44).

45. Liaise with the prosecutor as needed

In cases involving adult complainants, it is not unusual for the prosecutor to first meet a witness on the day when testimony is scheduled. This is not a desirable situation for children. Ideally, local practice will involve so-called “vertical prosecution” where one prosecutor handles the case from beginning to end. Your role as a victim supporter is to give the prosecutor advanced warning in cases where earlier or more frequent meetings are wise, where special needs must be accommodated for, and where application for testimonial aids is indicated.

TOOL BOX IDEA: Tips for prosecutors



As a victim/witness supporter, you may recommend and make suggestions, but many decisions are in the domain of the prosecutor or prosecution team. This document from the United Kingdom contains practical guidance for prosecutors about working with children as witnesses. It can be accessed on the Internet.

Joyce Plotnikoff & Richard Wolfson (2009). *Measuring Up? Evaluating Implementation of Government Commitments to Young Witnesses in Criminal Proceedings: Good Practice Guidance in Managing Young Witness Cases and Questioning Children*. London UK: National Society for the Prevention of Cruelty to Children.

46. Assist with preparation of a victim impact statement

If possible, have a victim impact statement (VIS) ready in case a guilty plea is entered unexpectedly and the case proceeds quickly to the sentencing stage. Parents may wish to write a VIS but children also make excellent statements and should be supported and encouraged to do so. Very young children can draw pictures to describe how they felt then or feel today. In years past, staff of the Child Witness Project wrote so-called "clinical victim impact statements" with a professional opinion of an offence's impact. Today, judges well understand the typical impacts of crime and abuse on children. So they want to hear directly from victims and their families about their feelings and opinions. Tell children that judges need and want to learn how these offences affect children and make them feel. It is crucially important that everyone understands who reads the VIS: the judge, the prosecutor, the defence lawyer and the offender. Knowing that the accused reads the statement sometimes changes what a child or parent writes. A VIS could be used in any application for criminal injuries compensation, or later at a parole hearing. Some children are not confident writers so you can act as a secretary, writing down what they tell you. Use their exact words and don't change anything. To get people started, find a list of prompts in the next box. This can be done by telephone if needed and the VIS mailed or faxed in.

TOOL BOX IDEA: Prompts to aid writing of victim impact statements for child victims



Most provinces and territories have forms with questions to guide completion of victim impact statements. Even so, many people don't know where to start. It is common for the sentencing stage to come as much as one year – or longer -- after a child first made a police statement. With that passage of time, parents may have difficulty recalling any symptoms a child had at the times charges were laid or even before. These prompts can improve their recall and also focus.

How did you feel when this was happening?

How do you feel now?

Did what happened have an impact on any of these things?

- Your mood (e.g., depressed, anxious, angry)
- Fears (that didn't exist before)
- Ability to trust
- Self-esteem
- Self-confidence
- Self-worth
- Relationships with others (males or females)
- Relationships with family
- School performance (e.g., ability to concentrate, grades)
- Sleep disturbances (e.g., nightmares, difficulty getting to sleep or staying asleep)
- Not being able to stop thinking about it, having images pop into my head, feeling anxious when reminded of what happened
- Regressed behaviours
- Separation anxiety
- Changes in feelings about one's own sexuality

When speaking with a parent about a child who experienced a traumatic offence, you can also refer to the list of trauma-related symptoms on page 19 for ideas.



Department of Justice (2006).
Victim Impact Statements [Fact Sheet].
Ottawa, ON: Department of Justice (see www.victimsmatter.gc.ca).



Your province or territory may have written guidelines to help you support a person who is writing a victim impact statement. Here are two examples available on the Internet:

Victim Services Program, Department of Justice of Newfoundland & Labrador (2000).
Victim Impact Statement Program: Guidelines for Completion.

Victim services Branch, Saskatchewan Justice (2000).
Victim Impact Statement Program: Guidelines Manual for Criminal Justice Personnel in Saskatchewan.

47. Support the child and family on testimony day

The process of court support, described on pages 52 to 54, typically includes these components: advising the family of what to bring to the courthouse, building a support “team” for the day, ensuring the family can enter the courthouse safely, ensuring the family can wait in safety and comfort, occupying the child with entertaining but not stimulating activities, having someone wait with the family until testimony is needed, acting as a support person if desired by the child (and permitted by the judge), providing positive affirmations and feedback to the child after testimony is given, informing the family of the next steps (e.g., sentencing hearing), and ensuring that the family leaves the courthouse in safety.

48. Advise the family of case outcome

Is the case committed to trial? Or what was the verdict? The sentence? The family will want to know how things turned out and need to understand any implications or next steps. Most people have a limited understanding of the legal system, so they will have questions and may voice misunderstandings that you can correct. For example, some people believe the decision to appeal an unfavourable decision lies with the victim. Have on hand the public legal educational information produced in your province or territory about the court process. Or have copies of educational material produced by the Federal Government such as that listed on page 35. In some cases, the outcome is not a welcome one for them. Because any trial can end in acquittal, it is best to have explained this possibility beforehand (see page 51). This is a feature of the “be honest” principle mentioned on page 7.

49. Assist with safety planning if needed

Fear of retaliation is very real for some crime victims. Conditions of non-association or pre-trial detention may help people feel safe as the case is being prosecuted. Once conditions of non-association are vacated by a verdict, some families want to pursue other forms of legal protection such as peace bonds, restraining orders available through family court or special protection orders available in some jurisdictions to address the risk for domestic violence. Laws and procedures vary across the provinces and territories, so be familiar with the local process for application. A condition of non-association may continue in a probation order, so help them access a copy and know how to report violations. In addition, some court outcomes trigger the need for a child welfare referral to protect children. If there has been a conviction, and the family wants to learn about their rights within the correctional systems, the National Office for Victims (1-866-525-0554) is a good referral as a starting point.

50. Solicit feedback

As the final step, ask the family, older children and teens for their opinions about your service. You may have a formal feedback form they can complete anonymously and mail in. It can be difficult for people to separate their opinions of the court process and outcome from their opinions about your service. But getting feedback aids in continuous quality improvement so it’s important to ask, and to ensure they can provide critical feedback if that was their experience.

Accommodations to Court Procedures for Child Witnesses

The courtroom is a challenging place in which to elicit information from children. This is true even for those able to make statements to police. Investigative interviews typically occur soon after the alleged event, in relative privacy and in small comfortable rooms. Questioners can spend time building rapport, match the pace of questions to the child's age and attention span, and use probes and open-ended questions. Court testimony, in contrast, can occur months or years later, perhaps in a room with many novel and distracting features including spectators in the gallery and people entering and exiting the room. In recognition of the vulnerabilities of children as witnesses, and in an effort to elicit the best testimony possible, the laws of Canada permit various testimonial aids and accommodations for witnesses under the age of 18.



Susan Hall & Bruce Sales (2008). *Courtroom Modifications for Child Witnesses: Law and Science in Forensic Evaluations*. Washington, DC: American Psychological Association.

RESEARCH FILE: Survey of judicial views on Bill C-2 amendments



Several important changes entered the law in 2006 with the coming into force of the *Criminal Code* and *Canada Evidence Act* amendments associated with Bill C-2. After a period of experience under the changes (late 2007 and early 2008), a survey of judges in four jurisdictions (Nova Scotia, Alberta, British Columbia and Yukon) was carried out. Thirty-four responses were received. All the provincial level judges who responded were familiar with the amendments and this was true of 69% of the superior court judges. Most agreed that the amendments had been useful and were fair to the accused. Data suggest that applications for CCTV or screens are usually successful when made, as are applications to introduce video-recorded evidence. However, CCTV equipment is not always available or there were logistical or technical problems. A case law review was also conducted. At that point, all *Charter* challenges to the provisions had failed (and a pending appeal was dismissed by the Supreme Court of Canada, in January of 2010).

Nicholas Bala, Joanne Paetsch, Lorne Bertrand & Meaghan Thomas (2008). *Testimonial Support Provisions for Children and Vulnerable Adults (Bill C-2): Case Law Review and Perceptions of the Judiciary*. Ottawa, ON: Department of Justice.



For an overview of the Bill C-2 amendments as they pertained to child witnesses, see page 8 of the first booklet in the "A Full and Candid Account" series. The amendments expanded the number of offences for which child witnesses can qualify for testimonial aids, increased and standardized the maximum age to qualify for testimonial aids (age 17), and moved from a case-by-case test to a presumption that a child witness can qualify for the testimonial aids of his or her choice, so long as its use would not interfere with the proper administration of justice. A number of other changes were made.

51. Ban on publishing names of witnesses in the media

A "publication ban" is an order of the Court prohibiting media outlets from printing, broadcasting or transmitting (e.g., on the Internet) a complainant's or witness's name or any other identifying information. This concession is not restricted to child witnesses, and is commonly used in sexual offence cases with victims of any age. However, the *Criminal Code* specifically states that the judge must inform any witness under 18 years of age of the right to apply for a publication ban.

52. Testifying outside the courtroom

Where the technology is available, a witness under the age of 18 does not have to testify in the witness box. The rationale is that being in the same room as the accused can inhibit a full and candid account. In Canada, closed-circuit television (CCTV) is the most common method of receiving testimony from outside the courtroom. CCTV equipment is hard-wired into an increasing number of courthouses and portable CCTV systems are used in some places.

Video-conferencing technology can be used for remote testimony, sometimes across great distances. Where identification of the accused is an issue, a camera with the capacity to pan the courtroom is helpful. As a less desirable alternative, the witness may be asked to enter the courtroom briefly for the identification.



The second booklet in the "A Full and Candid Account" series summarizes how witnesses testify from outside the courtroom, various potential configurations of equipment, the supporting legal provisions in Canada, basic facts and FAQs, research on CCTV-assisted testimony, what children say about testifying outside the courtroom, good practice guidance, situations that may arise for which you should be prepared, explaining CCTV to children, and how to ascertain a child's opinion on using CCTV.

TOOL BOX IDEA: Testimonial aids and vulnerable adult witnesses



Many of these measures are available to adult witnesses with mental or physical disabilities. In some jurisdictions, a report is written recommending an aid such as CCTV and this request may have to be supported by a physician's developmental report. If the defence does not consent to use of the aid, the report's author may have to testify.

53. Blocking view of the accused

We have found over more than 20 years of doing this work that seeing the accused is the most stressful aspect of being a witness. Especially that first glimpse can trigger intense emotions and even panic. Where the technology of testimony outside the courtroom is not available, the next best thing is to use a device such as a one-way screen to block the witness's view of the accused.



The third booklet in the "A Full and Candid Account" series addresses how to block a child's view of the accused using a one-way screen or other device or by re-arranging the seating in the courtroom. You will find there basic facts and FAQs, legal provisions, what children do and don't like about screens, and good practice guidance.

54. Using a designated support person

A support person is someone permitted by the judge to sit or stand close to a witness under 18 years of age while he or she testifies, either in the witness box or in a CCTV testimony room. Someone must apply to the Court for this concession, usually the prosecutor but a witness can also ask. The judge will agree, so long as it would not interfere with the proper administration of justice. Because there are some restrictions on who can be a support person, a victim services provider often serves in this role.



Booklet five in the "A Full and Candid Account" series describes how to select and use a support person, including how it benefits witnesses, where a support person can stand or sit, basic facts and FAQs, what children have told us about using a support person, good practice guidance, situations that may arise for which you should be prepared, tips for anyone engaging in this role for the first time, and some guidance for teenagers who are considering the use of a support person.

RESEARCH FILE: Use of testimonial aids



Little data are available to indicate how often testimonial aids are used in Canada but it is apparent that there is dramatic variation across cities. In our jurisdiction of London, Ontario, approximately half of all child witnesses testify via CCTV. On the other hand, we have visited cities where even screens are never used. In an observational study in Edmonton, a support person was the most common testimonial aid requested and used for testifying children. A support person was requested in 88% of cases and permitted by the judge in 86%. In a parallel study in the Toronto J-Court, a support person was requested for 64% of the children and ordered by the judge 54% of the time. In both cities, CCTV testimony was used by one-quarter of testifying children. Both the jurisdictions studied, Toronto and Edmonton, have child-friendly courtrooms and excellent programs to support testifying children so these results are not likely reflective of practice elsewhere in Canada.

Melissa Northcott (2009). Facilitating Testimony for Child Victims and Witnesses. *Victims of Crime Digest*, 2: 17-23.

55. Promise to tell the truth

The *Canada Evidence Act* says that any witness under the age of 14 who can understand and respond to questions (i.e., has the capacity to testify) can testify on a promise to tell the truth and his or her evidence has the same effect as if it were given under oath. As with adults, witnesses 14 and over can be either sworn or affirmed.

RESEARCH FILE: The effect on children of a promise to tell the truth



These authors reviewed empirical studies undertaken in Canada and elsewhere about the competency inquiry and children. A competency inquiry centres on a witness whose capacity to testify is in doubt, as once was the case for all witnesses under 14 years of age. In courtrooms, this may involve questions about truth and lies and knowing it is wrong to lie. In laboratory studies, where the "truth" is known by the researchers, a child's ability to answer questions about truth and lies is not related to the likelihood that he or she will respond truthfully to subsequent questions. In other words, cognitive ability to define truth and lie is not related to a child's commitment to tell the truth. Some children tell the truth even though they cannot define "truth" when asked. Conversely, a person who can define the truth, and explain why lying is bad, may lie. These authors note that the *Canada Evidence Act* was amended in part as a reflection of these research findings. Currently, a child can testify after giving a promise to tell the truth, so long as he or she can understand and respond to questions. Research has shown that making a promise to tell the truth increases the likelihood that the child will tell the truth and also may increase the likelihood that adults can detect any lies. It was hypothesized that the act of promising to tell the truth may make a deceitful witness uncomfortable in ways that make the lie easier to detect.

Nicholas Bala, Kang Lee, R.C.L. Lindsay & Victoria Talwar (2010). The Competency of Children to Testify: Psychological Research Informing Canadian Law Reform. *International Journal of Children's Rights*, 18: 53-77.

56. Exclusion of public from the courtroom

A judge may order that some or all members of the public leave the courtroom when a witness testifies. This will be done if exclusion of the public is "in the interest of public morals, the maintenance of order or the proper administration of justice." In this context, the "proper administration of justice" includes safeguarding the interests of witnesses under 18.

57. Presumption of capacity to testify

In practice, capacity to testify is questioned only for witnesses with an intellectual disability or very young witnesses. Witnesses under the age of 14 are presumed to have the capacity to testify, as long as they are old enough to understand and respond to questions. A defence lawyer who believes otherwise about a particular witness can challenge that presumption. The burden falls to the defence to prove (on a balance of probabilities) that the witness is not competent to testify. This exercise is called a competency inquiry. Unless the presumption of capacity is contested, the judge is not required to ascertain if a witness understands the difference between a truth and a lie or understands the consequences of telling a lie in court. In fact, the *Canada Evidence Act* states that "No proposed witness under fourteen years of age shall be asked any questions regarding their understanding of the nature of the promise to tell the truth for the purpose of determining whether their evidence shall be received by the court."

58. Video-recorded evidence

Video-recorded statements to police are used in two ways. First, a witness watches the statement at some point prior to testifying at a preliminary hearing or a trial, to re-fresh his or her memory. (Where no video-recording exists, the witness reads the written statement.) The second way these statements are used, for witnesses under 18 years of age, is to play the recording in court as a key part of the Crown's evidence-in-chief. Entering the evidence this way spares the child from having to repeat all the details of what happened. The child watches the statement being played, either from the witness box or while sitting in the CCTV room, and is then asked to "adopt" the contents, essentially by saying they were telling the truth when the statement was made. The defence can cross-examine the child at this point. So a witness is not spared the need to testify, but the experience is typically shorter and therefore less stressful.



Booklet four in the "*A Full and Candid Account*" series discusses video-recorded evidence, including benefits, various configurations of play-back equipment, basic facts, FAQs, what children have told us, good practice guidance, and how to explain its use to children.

TOOL BOX IDEA: Reviewing video-recorded statement in advance of testifying



Seeing their video-recorded statement twice in one day (once as a memory refresher and once in the courtroom) is too much for any child, especially anyone with a short attention span and/or emotional vulnerabilities. Give children an opportunity to review the statement about one week before the testimony date. If you will act as a designated support person, don't be in the room with a child who is reviewing a video-recorded statement, to avoid suggestions of coaching. Teenagers often prefer to be alone when watching their statements.

59. Preventing unrepresented accused from personally cross-examining a child witness

A portion of criminal accused forego the hiring of a lawyer, or cannot afford one. The judge will not normally permit an "unrepresented accused" to personally cross-examine a prosecution witness under 18 years of age. When this decision is made, the judge shall appoint a lawyer to ask the questions.

60. Use of hearsay evidence when it is both necessary and reliable

Most witnesses testify about what they saw or experienced, and are not permitted to repeat what others told them. Second-hand information is "hearsay" and is not admissible as evidence except under recognized exceptions. One of these exceptions involves children who made disclosures to adults. See the sixth booklet in the "*A Full and Candid Account*" series for more information.

Components of Pre-court Preparation

The goal of pre-court preparation is to increase the likelihood that a witness gives a full and candid account of the evidence. This is achieved primarily through education, anxiety reduction and by teaching basic testimony skills. We assume that knowing what to expect, feeling less anxious about it, and having practised assertiveness and question-and-answer skills will increase the quality and completeness of evidence. These steps are undertaken in addition to the tasks discussed on pages 25 to 29 such as informing the family of case developments, liaison with the prosecutor, and assistance with writing a victim impact statement.

61. Education on the court process and introduction to terminology

What most people know about the legal system comes from television or the movies and is rarely relevant or accurate. Televised courtroom scenes are most often in the United States, where children usually testify in an open courtroom. Judges and lawyers on television can appear overly mean, aggressive or angry, for dramatic effect. The terminology is American, like district attorney or grand jury. Canadian judges don't have gavels or sustain objections. Law school is a long way off for children, so they don't need to become legal experts. But they should understand the basic function of a trial, what a preliminary hearing is (if relevant), why it's important to tell the truth, the concept of cross-examination, the two main outcomes (guilty and not guilty), and the concept of reasonable doubt. Most of the key terminology and points to emphasize are discussed on pages 49 to 51, phrased in developmentally appropriate language. As we suggest on page 7, be honest. A witness should know that there may be spectators in the room (unless there is an exclusion order). They should know that the accused sees them as they testify and that some of their supporters (any potential witness) may be excluded from the courtroom. Many parents don't well understand the legal process either, so they benefit from listening in. If they have misunderstandings, they could communicate them to the child. Also, answer their questions. For example, many people want to better understand release conditions of the accused, their enforcement, and when they elapse.

TOOL BOX IDEA: Assessing court-related knowledge



As we stated earlier, adults tend to over-estimate how well children understand important legal concepts and vocabulary. Once you have provided some educational information, ascertain if this information has been understood. These questions are general enough for a child of any age:

- Do you know why you may have to go to court?
- Why is it important to tell the truth in court?
- What does it mean to make a promise?
- Who is in charge of the courtroom (or the boss of the courtroom)?
- What is the judge's job in the courtroom?
- What happens if a person tells a lie in court?
- What is the main job of a witness?

For children over 10, you can also ask:

- If someone asks you to testify as a witness in court, what does that mean?
- If you get a subpoena, what do you do?
- Why do we have trials in court?
- What is a person's "testimony"?

Be careful not to leave a child with the impression that they know very little, so ask only questions you know they can answer. If they can't provide good answers, adjust your approach and try again.



The Policy Centre for Victim Issues produces informational material about the legal process suitable for distribution to parents and teens. These examples are available on the Internet or they can be ordered from Justice Canada:

- *A Crime Victim's Guide to the Criminal Justice System*
- *Making it Easier for Young Victims & Witnesses to Testify*
- *Improving the Experience of Victims & Witnesses in Court*
- *Information for Victims of Crimes Committed by Young People*

Pamphlets, booklets or web pages written for victims and potential witnesses are also produced by most provincial and territorial governments. Here is one example:

Victim Services Branch, Alberta Solicitor General & Public Safety (2007).
What Victims of Crime Can Expect from the Criminal Justice System: Victims of Crime Protocol.

62. Clarification on the role of a witness

The only way a special person called a judge can learn what happened to a witness or what they saw is by hearing the person say it out loud at court. The judge was not there (at the offence) and needs to hear from people who were there in order to understand what happened. Witnesses tell the judge what happened by answering questions from lawyers. A witness's most important job is to tell the truth. So it's important to know and follow the rules for witnesses. It's especially important that a witness not guess the answer to a question. Children might think the judge already knows what happened and will correct them if they get it wrong. That's what happens in school when a teacher asks a question. You can tell a child that their brain is like a filing cabinet holding all the information about what happened. At the right time, they open the cabinet and leaf through the information there to pull out what they need to remember. Sometimes children ask, "do I have to tell everything that happened?" The answer is yes. If they now remember something else that they didn't say before, the correct response is to direct them to the investigating police officer. Don't ask questions about what else they remember, or you could end up being a witness in the case yourself. It is worth mentioning again that you never discuss the content of a witness's evidence. Point out that a witness cannot get into trouble with anyone for telling the truth. Sometimes, children have been threatened with bad consequences to prevent disclosure.

TOOL BOX IDEA: The "rules for witnesses"



When you explain the role of a witness, explain the rules for witnesses:

- be on your best behaviour / don't be silly
- listen carefully to each question
- speak loudly and clearly (point out microphones if there are any)
- answer out loud (e.g., say "yes" instead of nodding your head)
- tell the truth and only say what you remember
- when you have forgotten something, say "I don't remember"
- when you don't know the answer to a question, say "I don't know"
- when you don't understand a question, say "I don't understand what you are asking"
- never, ever guess the answer to a question

For the youngest children, keep the list short so as not to be overwhelming. Teach and reinforce these rules in a role-play exercise (page 39), perhaps with the child sitting in the witness box of an empty courtroom. Have them written out too, or help a child use markers to make his or her own "cheat sheet" of the rules.



Q. Must I ensure that the child can define a truth and a lie?

A. No. That was the case under the law up until 2006 but not now. A child who can understand and answer questions is presumed to be competent to testify and can promise to tell the truth without being “qualified” in this way.



Q. What if I am asked, “why is this case taking so long?”

A. After charges are laid, people are often unaware of how many court appearances occur before anything seems to happen from their points of view. The accused may have to hire a lawyer and needs time to consult with him or her. The Crown’s office must disclose evidence to the defence lawyer and/or the accused. Also, the defence lawyer and prosecutor may meet to discuss ways of resolving the matter without the need for a trial. If a guilty plea isn’t likely, a date needs to be chosen for either a preliminary hearing or a trial. The time frame depends upon the availability of a courtroom and the schedules of all involved lawyers, including a judge. It is not unusual, in most areas of Canada, for this process to unfold over several months or even a year.

63. Education on the roles of key people they will see or meet

A witness should know the titles and roles of people in a courtroom (clerk, reporter, security guard or sheriff, judge, defence lawyer, prosecutor and possibly a jury). Suggested explanations for judge, prosecutor and defence lawyer are given on page 50. They will hear the word “accused” a lot so clarify to whom that word applies. On the court tour (page 44), point out where people sit (including in the CCTV room if applicable). If identity of the accused is an issue, take careful note of the guidance on page 44. A toy courtroom is useful for young children and some web sites are available, with visual and written descriptions of court personnel. On subsequent visits, ask children to show you where everyone sits and what their jobs are. They can feel good about what they know and you can praise their good understanding of court.

TOOL BOX IDEA: Resources for children and teens



Victim/Witness Assistance Program, Ontario Ministry of the Attorney General (1989). *What’s My Job in Court? An Answer and Activity Book for Kids Who are Going to Court.*

Cory’s Courthouse : www.coryscourthouse.ca

Courtprep.ca : www.courtprep.ca and www.courtprep.ca/teens

Court Choices (British Columbia) : www.courtchoices.ca

Try Judging: www.tryjuding.ca [for teens, explaining the function of judges]

Victim Services, Newfoundland & Labrador

- *Making a Difference: You Can Do It* (DVD available on-line in English, French, Inuktitut, Mushua Innu-aimun and Sheshatshiu Innu-aimun)
- *Snowy and Me: Getting Ready for Court* (children)
- *Getting Ready for Court* (youth)

Victim Services, New Brunswick and Public Legal Education & Information Service of New Brunswick

- *You Are Not Alone: Tips for Teen Victims of Crime* (pamphlet)
- *You Are Not Alone: Being Supported Through Difficult Times* (DVD)

TOOL BOX IDEA: Resources for parents and caregivers



Victim Services Program, Government of Newfoundland & Labrador (n.d.).
Working Together to Prepare Child Witnesses to Testify in Court: A Pamphlet for Parents/Caregivers.

British Columbia, Ministry of Public Safety & Solicitor General (2006).
Help Starts Here: If Your Child is a Victim of Crime.

New Brunswick, Ministry of Public Safety (2009).
A Parent's Guide to Helping Youth Victims of Crime.

Centre d'aide aux victimes d'actes criminels de Laval (2009).
Pourquoi mon enfant? Guide à l'intention des parents dont l'enfant a été victime d'un acte criminel.

TOOL BOX IDEA: Resources for service providers



Boost Child Abuse Prevention & Intervention (2011).
Court Preparation Kit (Revised).

British Columbia, Ministry of Public Safety & Solicitor General (2006).
Let's Go to Court: A Guide to Court Orientation for Child + Youth Witnesses.
Victoria, BC: Ministry of Public Safety & Solicitor General.

Canadian Society for the Investigation of Child Abuse (n.d.).
Preparing Children to Testify as Witnesses.

Victim Services, New Brunswick and the Public Legal Education & Information Service of New Brunswick, (2010)
You Are Not Alone Facilitator's Guide.



Lynn Copen (2000).
Preparing Children for Court: A Practitioner's Guide.
Thousand Oaks, CA: Sage.

64. Assessment of court-related worries (and correcting or addressing them)

We list on pages 46 to 48 the ten most common court-related worries of child witnesses and provide on page 38 some questions to ask. Reassure the child that you can fix almost all their worries, once you know what they are. You want to learn about their worries without creating previously unthought of worries. A child might worry about things that aren't real or true (e.g., a witness who does a poor job will go to jail or get into trouble, people will laugh if the witness cries or gets upset, the newspaper might print the child's name, etc.). You can easily correct (or "re-frame") those worries. They may worry about not knowing what is expected of them, like where to sit. Assure them that you can teach them everything they need to know. If they worry about their safety while at the courthouse (or building used for court), point out the measures in place to protect them (like separate waiting area) and describe other safety features such as the security staff who sits in the courtroom and the security screening (if available) to ensure that no one has a weapon. Children worry most about seeing the accused, so advocate for any testimonial aid needed to address that source of stress.

TOOL BOX IDEA: Asking about court-related worries



It's important to learn about each child's unique court-related worries, but there is also the danger of creating worries that didn't exist before. A child who never worried about having his name in the newspaper might start to be worried once you ask about it. So choose your words carefully. Start by saying that most children worry about things and are a bit afraid of testifying. That is normal. You can help out with most of a child's worries but first you need to know what they are. These are some worries that other kids have talked about. There are no right or wrong answers and you just want to know what the child is thinking or feeling about testifying.

1. What are you most worried about in coming to court?
2. Is there anyone you are worried about seeing at court? Who is that?
3. Are you worried that you could do or say something at court that would get you in trouble?
4. Is there anyone that you worry might hurt you or your family before, during or after court?
5. Some kids worry they will not understand questions they are asked or know what to do at court. Do you feel this way?
6. Are you worried about forgetting or getting mixed up about what you have to say at court?
7. How do you feel about being asked questions by the Crown attorney and defence lawyer?
8. Are you worried that someone in your family might be angry because you tell the judge what happened?
9. Are you worried that somehow your friends or family might learn about you coming to court?
10. Do you think the judge might not believe you?

We recommend going through these questions one-on-one, not as a self-administered questionnaire. When a child expresses a worry, follow up quickly to address that worry.

65. Teaching assertiveness skills

Children are taught to be compliant with adult requests and not talk back or contradict them. So point out that they get to stick up for themselves in this unique context. It's okay to tell an adult when he or she has asked a confusing question. In fact, research shows that children make better witnesses after being taught some basic skills like this (see page 15). You are empowering them to be appropriately assertive and giving them permission to ask for a break or water or a Kleenex if needed, or say if they need to use the washroom. Some children are reluctant to state their address or school in court. Here's an opportunity to teach an assertiveness skill. Suggest they reply by saying, "I'm not comfortable saying that." Stress these important rules for witnesses: when you have forgotten something, say "I don't remember," when you don't know the answer to a question, say "I don't know," and when you don't understand a question, say "I don't understand what you are asking." You will give them a chance to practice during a role play, perhaps by using a complicated word like "prevaricate" in a question. That gives them a chance to say, "I don't know what 'prevaricate' means."

66. Teaching of courtroom etiquette and basic testimony skills

Teach children about the expectations of a courtroom and how to behave. Reassure them that Canadian courtrooms are not like those of *Judge Judy* or *The People's Court*. Those judges seem mean and impatient and may yell at people. Our courtrooms are really quiet – and boring. Suggest that this may be one of the most boring days of their life because they will wait so long for something to happen. A courtroom has some rules:

- dress nicely and don't wear a hat, chew gum or be eating in the courtroom
- turn off cell phones and don't play with electronic games or use music players
- use your inside voice
- be on your best behaviour and don't be silly
- stand up when the judge enters the room (and sit down again when the judge sits)

It's okay to bring a teddy bear or something to hold while testifying. Explain the "promise to tell the truth" or the swearing/affirmation process (depending upon the child's age). If a child is expected to testify in open court, suggest these strategies to reduce anxiety and aid focus:

- don't look at the accused if that will make you nervous
- instead, just keep looking at the prosecutor or at the judge or even at the Queen's picture
- use your relaxation techniques like taking a deep breath
- talk nice and loud so everyone can hear you
- don't rush to answer a question: listen carefully and think it through
- never answer a question that you don't understand

Explain how some things they have to say may be embarrassing. They have to say them anyway. The people in court have heard people say embarrassing things before and they understand that testifying is difficult for children.

67. Practice of question-and-answer skills through role play

Introduce role play only after explaining courtroom personnel and their jobs. Role play builds question and answer skills. As a witness supporter, you will never use details of the alleged offence in a role play, so choose a safe topic such as a family holiday. Use this opportunity to assess listening skills and ability to respond appropriately, and report any concerns to the prosecutor. A retired judge donated his old judicial robes to our Child Witness Project. Children love wearing the robe during a role play. Be aware of the difference between closed questions (e.g., "What is your teacher's name?") and open questions (e.g., "Tell me about your teacher"). Testifying usually involves open questions, specifically the W5: who, what, where, when, why and perhaps how. Role play should permit practice with the types of questions often used in cross-examination. Children interviewed after testifying describe the frustration of being interrupted, having questions come too fast or close together, being asked questions already answered, double-barrelled questions (two questions rolled into one question), complex or meandering questions, or questions containing words they don't understand. Many children are unfamiliar with common idiomatic expressions (e.g., having a chip on your shoulder). A young person can learn to listen to questions carefully and be appropriately assertive when faced with a confusing or poorly worded question. Reinforce the "rules for witnesses" (page 35).

RESEARCH FILE: Preparing young children for "tricky" questions



Forty kindergarteners watched a short movie clip about a man and a dog. The children then answered 25 questions, including open-ended free recall, unbiased-leading questions and misleading questions, some designed to implicate a woman who was not in the clip. Twenty children were told beforehand that the interviewer would try to trick them to say things that were not real. Their accuracy rate was almost twice as high as the other children.

Lisa Chan & Yukari Okamoto (2006). Resisting Suggestive Questions: Can Theory of Mind Help? *Journal of Research in Childhood Education*, 20(3): 159-174.

TOOL BOX IDEA: Ideas for role plays



Explain that the questions will have nothing to do with their evidence or what they will say in court. It's a chance for them to learn about the different types of questions they might be asked by a prosecutor or defence lawyer. Pick an event from the recent past, such as a birthday, vacation, social outing – even the events of yesterday can be the focus. Children should become comfortable saying, “I don't know,” “I don't understand the question,” “I forget,” and “that's not correct” to an adult. Explain that you will start with the types of questions the prosecutor may ask.

Crown: Good morning, Sara.
Sara: Good morning.

C: Sara, how old are you?
S: I'm eight years old.

C: And what grade are you in?
S: Grade three.

C: What school do you go to?
S: New Sarum Public School.

C: Who do you live with?
S: My mom, dad, and two brothers.

C: What are your brothers' names and how old are they?
S: David is six and Mark is three.

C: Sara, you are in court today to tell us about something and I'd like to ask you about that now. Take your mind back to last summer. I understand that you and your family went somewhere special. Is that correct?
S: Yes, we went to Canada's Wonderland.

C: When did you go there?
S: In the summer.

C: What month in the summer?
S: It was right after school ended. I am not sure of the month.

C: Was it hot outside then?
S: Yes

C: Do you know what day of the week you went?
S: No.

C: Was it a weekend or a week day?
S: It must have been a weekend because my Dad didn't have to work, and we didn't take a summer vacation this year.

C: Okay. How did you get to Canada's Wonderland?
S: My Dad drove.

C: What kind of a car did he drive?
S: He drove the van. It's the only car we have.

C: How many people were in the van?
S: Four

TOOL BOX IDEA: Ideas for role plays, continued



Crown: Do you remember what time you left that day?

Sara: Eight o'clock.

C: How do you know it was eight o'clock? Did you look at your watch?

S: No. I know because my dad said we were leaving at eight o'clock so we would be there at ten o'clock when it opened.

C: Were you there at ten o'clock?

S: I don't know for sure.

C: When you got to Canada's Wonderland, what was the first thing you did?

S: We went to the bathroom because my dad did not want to stop on the way.

C: Okay, so after you went to the bathroom what did you do?

S: We decided what rides we wanted to go on.

C: Do you remember what ride you went on first?

S: Yes, the Pirate Ship.

C: Was it fun?

S: Yes, but David didn't like it.

C: Did you like all the rides you went on?

S: Yes.

C: What else did you do besides go on rides?

S: We watched one of the shows.

C: How did you like that?

S: I liked it because Hannah Montana was in it.

C: How many other people were in the show?

S: I'm not sure. A lot.

C: What was the best part of Canada's Wonderland for you?

S: The rides. I've never been on so many rides.

C: How many rides did you go on?

S: I don't know.

C: What was the last thing you did before you and your family left the park?

S: I forget. It was late.

C: What time did you get home?

S: I don't know because I fell asleep and my dad just carried me into bed.

C: Okay, Sara, is there anything else you want to tell me about your trip that day?

S: No, just that I want to go again.

C: Thanks Sara. Those are all the questions I have. Now my friend Mr. Smith would like to ask you a few questions.

Defence: Sara, I want to ask you some questions about what you told the Crown just now. Now you said that you left for Canada's Wonderland at eight o'clock?

Sara: Yes, that's right.

TOOL BOX IDEA: Ideas for role plays, continued.



Defence: But you also said that you didn't look at a clock so you don't really know when you left, isn't that correct?

Sara: Yes, but my Dad said we were leaving at eight o'clock.

D: But you don't know for sure that's when you left, do you?

S: No.

D: Sara, you said that the first ride your family all went on was the Pirate Ship, is that correct?

S: No, not my whole family went. Just my Dad and David and I went. Mark was not tall enough.

D: Why didn't you tell the Crown that not all your family went?

S: Because she didn't ask me about that.

D: Now you said you went on a lot of rides. Can you give me a number for how many is a lot?

S: I'm not sure.

D: Well, was it more than five?

S: Yes.

D: Was it more than ten?

S: Yes.

D: Well how many was it? Give me your best guess.

S: I really do not remember.

D: Sara, you said it was hot that day.

S: Yes.

D: Did you take your bathing suit?

S: Yes.

D: Did you go on any of the water rides or water activities?

S: Yes.

D: So why didn't you tell the Crown about those? She asked if there was anything more about Canada's Wonderland you had to tell her.

S: I don't know. I guess I forgot.

D: How could you forget? You said going on the rides was the best part of Canada's Wonderland, and now you say you forgot to tell her about all the water rides you went on.

S: I don't know. I just forgot. It was a long time ago.

D: Okay, let's see what else you remember. Did you have anything to eat while you were there?

S: Yes, we had French fries, a cheeseburger and an ice-cream bar.

D: Why did you not tell the Crown what you had to eat?

S: Because she didn't ask.

D: Alright, now you said it was just the four people in your family who went to Canada's Wonderland. Isn't it true that your aunt and her three children were also there? You didn't tell the Crown about that either did you?

S: She asked who I went with. I did not go with my aunt. She lives in Toronto and we met them after we got to the park. We met them at lunch time.

D: Okay Sara. Just one last question. You said that you did not know what time you got home from the park, but I suggest that it was after midnight when you got home and that you did wake up?

S: I did not wake up and I don't know what time we got home.

D: Thank you. Those are all my questions.

68. Teaching of stress reduction and relaxation skills

It's normal to be nervous when you testify. Adults get nervous, too. A stressed and nervous witness may not listen carefully to questions and have trouble remembering parts of their evidence. By asking about court worries, and general observation, you will determine a child's level of anxiety about testifying. For a highly anxious child, introduce stress management skills early. For most others, anxiety will build as the testimony date approaches so address this issue at a later phase. Having games and activities in the waiting area – even a deck of cards – is a distraction on the day of testimony. Advise caregivers to bring activities to amuse their children. Teenagers and older children might enjoy bringing an MP3 loaded with their favourite music. Both children and adults may benefit from learning the three stress-management activities described below. They can practise at home or in other stressful circumstances such as before a presentation in class. Also, focus them on thinking of a time in the past when they were nervous or scared but did a good job at something, like jumping off a diving board.

TOOL BOX IDEA: Three techniques for stress management



Teach these techniques to both children and caregivers who are expected to testify.

Squeezing lemons

Imagine you have half a lemon in each hand. Squeeze as hard as you can for a count of eight. Tighten all the muscles in your upper body. Then slowly, slowly, slowly uncurl your fingers to a count of eight. When your hand has fully relaxed, it should be like a rag doll hand. Shake it to make sure. Do this four or five times. You can do this exercise anywhere, like before doing a presentation in class, before an exam or even in the witness box. It can also help when you feel yourself getting angry.

Deep breathing

The reason most of us get symptoms of nervousness (shaky hands, butterflies in the stomach, nausea or sweating) is because, without realizing it, we have been taking smaller and smaller breaths. The muscles in our body start to starve for oxygen so they give us a symptom that tells us we need to be taking in more oxygen. When we completely fill our lungs with air, our muscles relax. As soon as you notice yourself starting to feel anxious, start to do deep breathing. It also helps if you do not want to cry. Put your hand on your tummy below your bottom rib. (For young children, get parents to help by putting their hand on the child's tummy.) When you completely fill your lungs with air, your tummy pushes out. Blow out all your air and then slowly breathe in to a count of four, then slowly, slowly blow out all your air to a count of four. Practice helps, and a good place to do that is in bed at night when you are trying to relax and fall asleep anyway.

Blowing Bubbles

This is a good exercise to do while waiting for court to start. Use a bottle of store-bought or homemade bubbles and a wand. The goal is to blow the longest stream of bubbles you can. Make it a game. It quickly becomes apparent that if you blow out quickly all you get is a short burst of bubbles, but if you take in a long slow breath and blow it out slowly, you get a nice long stream of bubbles. This is a fun way to relax and distract young children.



Q. How do I explain the possibility of an adjournment?

A. Be honest. Families may come to court only to see the case adjourned, and this is very frustrating. It's difficult to predict because adjournments are triggered by many factors, including illness of key parties, weather and travel problems, running out of time when cases go long, and last-minute plea discussions. Point out that efforts are made to re-schedule the matter as soon as possible.

69. Court orientation tour

Each potential witness should have the opportunity for a tour of the courtroom (or room used for court) and, where available, the waiting area and CCTV room. Children describe the tour as one of the most helpful components of court preparation and it is a feature of our minimally acceptable practice (page 27). Sitting in the judge's chair in an empty courtroom is often a salient memory even years later. A court tour helps desensitize the child so the environment seems less novel, intimidating and anxiety-provoking. As we suggest on page 27, conduct as many meetings as possible in the court building for this reason. A tour gives a visual image of where they will testify, it demonstrates safety features of the building (e.g., separate waiting area), stimulates questions, provides an opportunity to clarify some distorted ideas or worries, and permits you to demonstrate (rather than describe) testimonial aids. When CCTV testimony is planned, the child will clearly see that the accused will be in the courtroom but, if identity of the accused will be an issue, it may be a problem if you point out exactly where the accused sits (see below). The tour also provides an opportunity to introduce or repeat key information such as the rules for witnesses (page 35), the rules of court (page 39) and the functions and roles of key people in the courtroom (by showing where they sit). Ideally, the tour will take place well in advance of the testimony day, because information learned helps with other components of your preparation activities. For example, they will understand where the support person will sit or stand when you describe the concept. Where an advanced tour is not possible, as sometimes within the circuit-court context, have the family arrive early enough to permit a quick visit before anyone else arrives. The child may be familiar with the building when used for other purposes such as sports competitions or community feasts but never have seen how tables are set up for court. Additionally, or as an alternative, some web sites permit virtual tours of courtrooms.



Scottish Executive (2004).
Guidance on Child Witness Court Familiarisation Visits.
Edinburgh, UK: Scottish Executive.

TOOL BOX IDEA: When identification of the accused is an issue for trial



During the tour, help the child learn where key people will sit when court convenes. In some trials, the complainant will be asked to identify the person about whom they are giving evidence. So as not to contaminate this process, don't tell them where the accused will sit. Identity is not often an issue in cases involving child victims. However, when in doubt, ask the prosecutor for guidance on this issue.

70. Advocate for any testimonial aids from which this child might benefit

Three testimonial aids are commonly used in Canada: a witness screen to shield a child's view of the accused, testimony from outside the courtroom (usually with a CCTV link), and/or a support person who sits with or near a testifying child. As we have stressed in several places here, offer testimonial aids to all children and young people. Don't assume they don't need this protection because of age or seeming confidence. The objective seriousness of the offence is not always a good indication either. Perhaps during the court orientation tour, demonstrate the aids available in your courthouse, or the building where court convenes, and give the witness a choice. According to Canadian law, a witness under 18 years of age can request to use the testimonial aid of his or her choice and, in practice, that request is made by the prosecutor to the judge or justice. This request will be turned down only if the use of an aid would "interfere with the proper administration of justice." Your role as a court supporter is to ascertain each witness's preference and communicate that to the prosecutor so a request for the aid can be made in a timely way before the preliminary hearing or trial. If you have historically worked with adults, familiarize yourself with the aids and accommodations available to child witnesses, briefly described on pages 30 to 33 and fully described in the "A Full and Candid Account" series.

TOOL BOX IDEA: File information



In the case file, you will keep information gathered during the intake process, consent forms, correspondence and also documentation of all contacts with the witness. This will include a case note for each session describing what you talked about or taught. Maintain recognized standards of ethical practice (e.g., safe storage of files, confidentiality, keeping information up to date). Based on the complete and timely recordings in your files, a colleague should be able to pick up the case if you become ill or otherwise not able to continue. In addition, although this is extremely rare, your file could be subpoenaed if someone suspects you coached the witness or engaged in other inappropriate approaches.

The file is also a place to record your impressions of the child such as level of anxiety (high, medium, low). Rate the child as poor, satisfactory, good, or excellent on these dimensions:

- Communication ability
- Comprehension
- Knowledge of times and dates
- Ability to listen and focus
- Ability to correct mis-communication / misunderstanding

Also note any issues about which you may have to inform the prosecutor, including special challenges, communication or cognitive disabilities or need for an interpreter. Finally, note your assessment of any testimonial aid that is required and wanted by the witness.



Q. How much information do I give the prosecutor?

A. The answer depends upon your role (vis-à-vis the prosecuting authority) and also the type of information you have. Any information the prosecutor has must be disclosed to the defence so this is an important issue. If you work for a community agency (NGO), your relationship with the prosecutor may be different than for a government employee who works for the same ministry. If you and the prosecutor work for the same ministry, you are probably required to provide all information you receive. Your ministry may have policies on this point. Otherwise, it's a good idea to discuss with the prosecutor what type of information they need (or do not need) to receive. For example, ascertain if you need to disclose when a child is in therapy. The prosecutor can provide guidelines about what information he or she feels is relevant to the case and what should be disclosed.



Q. What do I do when a prosecutor decides not to apply for a testimonial aid when I know the child needs one?

A. This is the most common question we hear from victim supporters across Canada. In some locations, testimonial aids are used routinely while in others they are never used. The cause may be a misunderstanding on how the law was changed in 2006. Sometimes prosecutors never ask for testimonial aids because they believe the local judges will never agree. Sometimes judges wait for an application and wonder why the prosecutors never apply. Ensure all parties have copies of the "A Full and Candid Account" booklets so everyone is on the same page about the Bill C-2 amendments of 2006.

Things Children Might Worry About

During the months of waiting, victims and their supporters worry about many things, sometimes including retaliation by the accused or his/her supporters. For many victims and other witnesses, the thought of testifying in front of people is a huge source of worry. Having to be in the courtroom with the accused is another common worry. Children's court-related worries may seem odd and unexpected to adults, but they reflect their incomplete knowledge about the legal system, some wrong ideas they picked up on television, and perhaps threats made by the accused to secure their silence when the offence was happening.

71. Children may worry about seeing the accused again

In our experience, this is the most common and the most intense court-related worry among testifying children. By the time of a preliminary hearing or trial, it may have been many months since the child last saw the accused. Refer to our earlier discussion of trauma to understand how seeing the accused again will trigger a stress reaction in some children, including during an unexpected encounter in or while entering the court building. Efforts to shield a testifying child from the accused, including screens or CCTV, are premised on the knowledge that some children are so stressed that they may not be able to testify at all. Others will give incomplete evidence. As we suggest on page 38, it is best not to ask the child if they are worried about seeing the accused. Ask if there is anyone they are worried about seeing in court. A discussion on this issue will help you decide what, if any, testimonial aid is needed for this witness.

72. Children may worry about not being believed

Our research on children's reactions to sexual abuse shows that fear of disbelief is a major impediment to disclosure. They assume that the word of an adult will always be taken over the word of a child. Some abusers are well regarded in the community or members of trustworthy professions such as the clergy, people children are taught to see as honest and reliable. Research on children's predictions about their reactions to testimony shows fear of disbelief is also a salient one for many prospective child witnesses. Indeed, by entering a not guilty verdict, the accused has (apparently) denied the child's version of events. Worries about disbelief are entwined with worries about the accused lying and being believed. Emphasize that their job is not to *convince* the judge that they are telling the truth. Their job is to *tell* the truth. See our discussion about "reasonable doubt" on page 51 for more guidance.

73. Children may worry about people finding out about the offence

A courtroom is a public place and few witnesses relish the public exposure that testifying entails. Children are no different. People have a generally negative view of court as a place where bad people have to go and somewhere you want to avoid. A sense of stigma can attach even to victims of crime. One of advantage to testifying via CCTV is to minimize this feeling (although children should be made aware that spectators in the courtroom can watch them). An exclusion order can also respond to this issue, if requested by the prosecution and agreed to by the judge. You can almost always assure witnesses that their name will not be printed in the newspaper or aired on the radio, because publication bans are easily obtained and most media outlets are scrupulously careful on this point (journalists are parents too). In small communities, such as the hamlets of northern territories, it is difficult if not impossible to maintain anonymity, especially where court is well attended by community members. So emphasize that victims have nothing to be ashamed of when another person makes a bad choice and hurts them. In urban settings, it is common to see school groups attending court for a law course or other learning experience. When seeing that, suggest the teacher find another trial to observe, one not involving a young witness.

74. Children may worry about getting yelled at, getting into trouble, or being hurt

Watch “Judge Judy” on American television and you will not be surprised that children worry they will be yelled at in court. Tell children that Canadian judges are nice people and not mean to witnesses. As we discuss later, children may perceive the defence lawyer as mean, so re-framing this interpretation is an important part of describing the defence role. A child testifying in a courtroom may think the accused can jump up and yell or run up to hit or grab them. Most urban courthouses have a range of protective features, such as security-controlled entry, security staff in courtrooms, separate waiting areas, and the possibility of CCTV testimony. Point these out during the tour and again as needed so the child feels safe. It may never occur to an adult that a child could worry about imprisonment, but this idea is held by some children, especially those who were threatened with “getting into trouble” if they disclosed. A court case seems like a competition where only one side “wins.” If an accused can go to prison for “losing” the case, can a child go to prison if he or she “loses” by not being believed?

75. Children may worry about repercussions and retaliation by or against their family

It’s normal for witnesses to worry about retaliation for testifying. Children are no different, except they might feel more vulnerable than an adult would. If a child was threatened not to disclose, he or she may believe these bad consequences will follow their testimony. Common threats are to hurt them, hurt someone they love or a pet, or that they themselves will go to jail once other adults find out. Peer-to-peer assault cases at or near school are especially difficult for victims, especially if there is a gang component. When the accused is a family member, some children are entirely rejected by their families for disclosing abuse and/or need to be taken into child-protective care for their safety. Consequences of disclosure are enormous for them and they may (erroneously) feel responsible for the upheaval and distress in their lives and in those of others they care about. In other cases, family loyalty is divided and they may see family members in court to support the accused. The investigating police officers can reassure witnesses about the protections put into place on their behalf. For example, safety planning for school pick-up and drop-off can include providing the school with copies of any restraining orders and/or custody papers, a photograph of the accused, or other measures as recommended. Ensure families know of any conditions of pre-trial release designed to protect them (e.g., conditions of non-association) but also ensure they know when, how and where to report violations. Keep them apprised of variations made to the conditions, especially the release of an accused from detention.



Book seven in the “*A Full and Candid Account*” series describes the family dynamics often present in inter-parental domestic violence cases and how children struggle with their role as potential witness “for” one parent and “against” the other. There is a list there of mistaken ideas held by some children (e.g., “I called 911 so this is all my fault”), which you can clarify. We recommend that children testify only as a last resort in these emotionally charged cases.

76. Children may worry about not understanding court procedures

When you explain your role (see page 49), you reassure children that you know everything they need to know and will help them learn it. Research shows that children under 10 have poor understanding of most legal terms or procedures, complicated by the fact that some terms (e.g., case, charge) have other meanings more familiar to them. Explain important terms and the roles of key people in age-appropriate language (pages 49 to 51). Children might worry about not knowing where to sit, being alone in the courtroom, and generally appearing less than competent. Assure them that you won’t let them be alone at any point. Most urban courtrooms are designed to be grand and imposing, to impress visitors with the majesty and gravity of the legal process. When you conduct pre-court meetings in the courthouse, children become well familiar with the layout of the building, what a courtroom looks and sounds like. They generally start to feel more comfortable with the setting and their confidence increases.

77. Children may worry about getting mixed up or forgetting things

As you will stress when teaching the “rules of witnesses,” it’s normal that people forget things that happened a long time ago, especially small details like what they were wearing or what time it was. A witness who has forgotten something can simply say, “I don’t remember.” Witnesses will have an opportunity to review a written or video-recorded police statement and also any transcript of their testimony at a preliminary hearing. The goal here is to “refresh” their memory. If you are expected to be a support person, do not sit with a child who is reviewing a statement. Teens often prefer to be alone when they watch a video-recorded statement. On the other hand, a young child may have difficulty attending to the statement without an adult there to keep them focused. If that is the case, find a supportive adult who is expected to be neither a witness nor a support person.

78. Children may worry about crying or getting upset while testifying

Indicate that you understand how stressful an experience this is, not just for children but for adults as well. Testifying can be scary. And some witnesses are asked to talk about things that were very sad or people who hurt them. It’s normal to get upset when you remember sad or scary things. That is why you see a Kleenex box near where witnesses sit.

79. Children may be afraid (or embarrassed) to say what happened

The content of a child’s testimony may involve something the child is reluctant to say out loud, perhaps because it involves body parts, sexual acts or the need to repeat rude words or bad language someone said to them. Encourage them to practise, as described next.

TOOL BOX IDEA: Practice saying the names for body parts



Talking about private parts and sexual acts is probably the most difficult part for most child and some teen witnesses. Assure them they won’t say anything to shock or surprise a judge. Judges hear about things like this every day, from many, many children. Depending on their stage of development, a child may or may not know the correct words for private body parts. As victim supporters, we cannot teach them. But, if they already know the words, help them feel more comfortable saying them out loud. Explain, for example, that these are just names for parts of the body that they are not used to saying every day. Like they may use the word “elbow” or “funny bone” but that bone is also called the “ulna,” which is a word they are not used to saying. Encourage children to practise saying the words out loud to themselves when they are alone so that they feel more comfortable saying them. It is kind of like some people have more difficulty saying words like “aluminum” or “cinnamon” -- it just takes practice. By using these words in court, it tells the judge exactly which part of the body they are talking about and that helps the judge to make a good decision. If they do not know the correct words, encourage them to use the words they have been taught to use in their family. Let them know that they may be asked if they know any other words for that part of the body, or they may be asked to point to that part of the body. Sometimes, since the charge was originally laid, a child may have learned the correct words. At court, they may be asked how or where they learned any words not used in their original statement.

80. Children may feel responsible for unwanted court outcomes

In many cases, the best descriptor of how a child feels is “ambivalence.” They can have mixed feelings about the accused, perhaps wanting to continue a relationship while also hoping for a conviction but also maybe feeling guilty about the possibility of incarceration. They may be plagued with guilt over having talked to the police, and feel responsible for negative consequences that befell his or their own family. Re-frame the responsibility as falling to the accused – when a person chooses to break the law, they must accept the consequences – and also with decision makers in the legal process, especially the judge.

Important Concepts to Explain

Children tend to well understand the role and function of the police, although many young children expect a police officer to wear a uniform. All child witnesses will have had their own personal experiences with law enforcement officers. And the police function is easy to understand: they catch the bad guys and protect nice people. Most children understand the idea of a promise to tell the truth, both what is meant by a “promise” and by the “truth.” Conversely, most children know what a “lie” is. Children also understand the basic idea behind prison as an unpleasant place for a time out. Beyond these concepts, children’s understanding of the legal system is very poor, albeit likely to increase year after year as they get older. Many concepts are abstract, they get distorted ideas off television, and – plainly put – the legal system is difficult to understand even for adults.

TOOL BOX IDEA: Check your language



When we work in the legal system, we quickly accommodate to what outsiders experience as a novel and sometimes mystifying vocabulary. We can easily slip into jargon, acronyms and even slang. Adults may recognize their lack of comprehension and ask us for clarification. Also, an adult who hears “hour” or “our” in a sentence, or “one” versus “won,” uses the context to infer which word is meant by the speaker. Young children don’t always recognize when they don’t understand. Or, when they hear an unfamiliar word, like “pleas,” assume it is a familiar word like “please.” Think about all the homophones there are in the legal system, words that sound the same but have different meanings (e.g., vary/very, seize/sees, waive/wave, facts/fax). And we use common words in specialized ways. In their world, a “case” is a thing to carry papers, “parties” are places to get presents, “charge” is what you do to your cell phone, “hearing” is something you do with your ears, you “bail” when your boat is sinking, and a “sentence” is a part of a paragraph. In court, you “swear” to tell the truth, and that is encouraged. Swear in school and you get in trouble for using bad language. “Cells” is what a shopkeeper does. All rise! Is that a type of bread you get at the deli? Some unfamiliar words might sound like more familiar words, like “jury” and “jewellery,” and “allegation” and “alligator.”

81. Explain your role and what you do

When first meeting a child, explain your role in the process. You are the person who helps children learn about court so they can be good witnesses. Your role is to make it as easy as possible for them to tell a judge what happened. Adopt a confident tone, explaining that you know everything they need to know and will help them learn it. That helps them be confident too. You will help them learn about everybody they are going to meet and what their jobs are and what is going to happen. You will probably get rid of a lot of their worries once you know what they are. Point out that you will always be with them and they should let you know if anything is worrying them. Children usually appreciate knowing that you will not discuss their “evidence” (i.e., what happened). They have already told several people and face the prospect of doing so again when testifying. Unlike for many adults, children rarely find it cathartic to verbalize what happened if the offence was at all traumatic or embarrassing.



Q. What do I say if a child asks, “do I have to testify?”

A. The answer is, “Yes, when you get a subpoena, you have to come to court. The only way the judge can know what happened is to hear you say it out loud.”

82. Explain the role of the judge

The judge is the boss of the courtroom and makes sure everyone follows the rules, like no gum chewing and no wearing hats. The judge also decides if the accused is guilty or not guilty. The judge wants two things: 1) for witnesses to show up for court; and, 2) for them to answer the questions truthfully. So your job is to come to court to tell the judge the truth about what happened. You did already talk to the police, but the judge was not allowed to hear that information. The judge sees you as the "expert" on what you remember about what happened. An expert is a person who knows a lot about something. No one can see what you remember in your brain, not even your mom or dad, so you have to say it out loud in court. The judge will listen to you testify and also listen to other witnesses so he or she can have all the important information. Then the judge decides if the accused is guilty or not guilty. If people don't tell the truth, the judge can't make a good decision.

TOOL BOX IDEA: Evidence as a puzzle



Children sometimes overestimate their roles in a court outcome, feeling overly responsible for what happens to the accused. That is why they often feel badly when the case ends in a not guilty verdict. It's like they didn't do a good enough job or that the judge did not believe them. Use a puzzle as a visual metaphor for explaining their role in the judge's final decision. Tell them that the judge can only make good decisions about whether someone has done something wrong if they have all the information from all the witnesses, even the accused if he or she wants to testify. Evidence in court is like pieces of a puzzle. The judge puts together all the pieces to see the whole puzzle. To demonstrate, take a picture or sheet of paper and rip it into six or eight pieces. Lay out the pieces one by one. The police contribute one piece and the other witnesses give other pieces. The child is responsible only for one piece of the entire puzzle.

83. Explain the role of the prosecutor

The person in court who helps you say what happened is called a Crown lawyer, or Crown counsel or Crown attorney or a prosecutor (depending upon where in Canada you live). If we use the word "Crown," it's because he or she works for the Queen and the Queen wears a crown. (If you know the name of the prosecutor for the case, ensure the child knows what that is.) This person's job is to ask all the right questions to help you tell the judge what happened. They ask you questions first, called direct examination. The type of questions they ask are like the things you think about when writing a short story: who was there, when did that happen, where that was, what happened, and some "how" questions like "how did he touch you?" Here's an example. You told me you saw a movie on Saturday. Who was with you? How did you get there? How long did that take? What movie did you see? Did you meet anybody there? When did you go to the bathroom? Find more information on page 39.

84. Explain the role of a defence lawyer

The defence lawyer is the accused's helper. They are really nice people who have kids of their own but they are here to do a job which is to "test the truth," to make sure that you and all the other witnesses are telling the truth. This is an important job: to make sure innocent people don't get convicted by mistake. (Children easily understand the idea of being blamed for something they didn't do.) So they may seem mean or angry, but they are just doing their jobs. They may not seem as friendly as the prosecutor, but it's not because they don't like you. They ask you questions about what happened but they might ask different questions than the prosecutor did. Listen carefully to the questions because some of them might be a bit confusing. Like, they may use a word that you never heard before. If you don't understand the question, say to the defence lawyer that you don't understand the question. They will ask it again in a simpler way. Never answer a question that you don't understand.

RESEARCH FILE: Children's perceptions of the defence lawyer



In this U.K. study where children described their experiences as a court witness, it is clear that they saw cross-examination as a challenging process. Almost half described defence lawyers as “sarcastic,” “rude,” or “aggressive.”

Joyce Plotnikoff & Richard Wolfson (2009). *Measuring Up? Evaluating Implementation of Government Commitments to Young Witnesses in Criminal Proceedings*. London: NSPCC.

85. Explain the concept of cross-examination

You tell the judge what happened by answering questions from the lawyers. First, the prosecutor asks questions. Then the defence lawyer asks questions. That is called cross-examination. (Research shows that children often confuse “cross-examination” with medical examinations or even forensic examinations they see on television.) By asking some of the same questions as the prosecutor, they want to see if you say the same thing. But they can ask different types of questions, called leading questions. Those questions might start out like this: “I suggest that...” or “couldn’t it be that this is what really happened...” or “would you agree with me that ...” or “could that maybe have been a dream?” Or “didn’t you say before that...?” The most important thing is to listen very carefully to the question because you are the expert on what happened.

86. Explain the concept of an oath or affirmation

Taking an oath is making a promise to God with your hand on a religious book to tell the truth. If you don’t believe in God, you can make an affirmation which is like a promise to tell the truth.

87. Explain the concept of a victim impact statement

A VIS is a way to tell the judge how what happened affected you, like how it made you feel. When you write a VIS, the prosecutor gets a copy of it and the judge gets a copy. They must give a copy to the defence lawyer, so that means that the accused can read what you wrote down.

88. Explain what a jury does, if needed

A child may see the jury as part of the “audience” in the courtroom, people who can ask questions, or people who give the judge advice. You can explain it like this: A jury is just 12 ordinary people chosen by the lawyers (the prosecutor and the defence lawyer) to help the judge. They listen to what everybody says and decide if the accused is guilty or not guilty.

89. Explain the concept of “beyond a reasonable doubt”

This is a tricky concept to explain but it’s important to try. Otherwise, a child tends to see an acquittal as a matter of not being believed. For a judge to find an accused “guilty,” the prosecutor must prove things to a very high level of proof called “beyond a reasonable doubt.” It’s like needing to get 95% on an exam. If the prosecutor can prove it to the 80% level, that is very high proof but still not enough.

90. Explain the two most common court outcomes: guilty and not guilty

Once all the evidence from all the witnesses has been said aloud in court, the judge has all the pieces of the puzzle and makes a decision, that the accused is either “guilty” or “not guilty.” Guilty means that the judge is 95% sure that the accused did something wrong. When an accused is found “not guilty,” maybe the judge was 80% sure but that is not enough. “Not guilty” does not mean innocent and it does not mean that people didn’t believe you. And the fact that he or she was charged is remembered by the police. You told an adult what happened, which was probably very scary so you were very brave. Lots of people believed you and you stuck up for yourself.

Components of Court Support

A witness may testify at a preliminary hearing, a trial or both. Ideally, there will be time and resources to provide at least a few sessions of pre-court preparation as the testimony date approaches. These are the main components of day-of-court support, in addition to the key steps mentioned earlier such as seeking feedback on your services.

91. Have activities on hand to entertain children

A case may be called first in the morning or be last on the list. Because the wait could be a lengthy one, advise the family to bring diversions and activities to keep children amused, and also favourite snacks and drinks. But also have activities on hand in case they don't bring anything or in case the wait is lengthy. A child-specific waiting area may have videos/DVDs, drawing and craft materials, playing cards, puzzles and games. Stimulating activities like some video games may be counterproductive. Avoid sugary drinks and snacks for the same reason.

92. Develop a court support "team" for the day

Also because of the wait, young witnesses benefit from having a group of supporters to wait with them. If younger children in the family are cared for at home, supporters can focus attention on the witness or witnesses. When the accused and witness are related, they will share mutual family and friends, some of whom have clearly taken "sides" in the case. Children like to see that there are people there to support them. Ask the child who (if anyone) they want in the courtroom when they testify. If that person is a witness who will be excluded from the room, it may be possible to have him or her testify first. If not, identify someone else who can act in this role.

93. Ensure the family can enter the court building safely

Suggest the family arrive early, to enter the building in advance of the accused and his or her supporters (some of whom may also be related to the witness). If needed, coordinate meeting them outside the building. Early arrival also permits a period of time to get settled. Some people pack a lunch to eat in the court building, so they don't risk running into the accused at the meal break. We are fortunate in London that our CCTV testimony suite has a self-contained bathroom. That is not available everywhere. So devise strategies to permit unperturbed access to bathrooms and for adults to exit and re-enter the building if needed to smoke.

94. Ensure the family can wait in safety and comfort

Whether the case is called first or heard late in the day, waiting is always difficult. Waiting in a place near the accused, or his or her supporters, may add to the strain. The possibility for intimidation, real or imagined, is present. For some witnesses, it's more than they can cope with so they leave or refuse to speak when called. For all witnesses, it's a distraction that heightens anxiety and challenges their abilities to remain calm enough to testify well. Every courthouse, or building used for court, has a different configuration. Separate waiting areas are available in some places but logistically impossible in others. Privacy is the most important attribute of such an area, so don't worry if the room is not decorated in a child-friendly way. If no space is available, have the witness and supporters wait in an adjacent building, in a nearby coffee shop (with a cell phone), in the police detachment, or even in a parked car outside the building. If this is not possible, help the child develop other strategies to stay calm and focused, including distraction, stress management (page 43) and discouraging them from looking at the accused. If necessary, stand in a position to block the child's view of the accused. Positive affirmations may help, such as reminding the child they have done nothing wrong and have nothing to be ashamed of.

95. Have someone wait with the family until testimony is needed

People are anxious to hear about evolving developments (e.g., plea discussions) or any indication of when the case will be called. Having periodic updates is appreciated. Witnesses may have last-minute questions they did not think of before and are generally apprehensive and nervous. Children especially may be afraid at the very idea of being left alone. Some families may prefer to wait by themselves, but most people appreciate a person to sit with them and be available to pass along updates and answer questions.

96. Review or introduce important information

As you wait, you may have the opportunity to introduce or reinforce the rules for witnesses (page 35), courtroom etiquette (page 39) and some relaxation techniques (page 43). If they haven't already met, introduce the family to the prosecutor and conduct a quick tour of the (hopefully empty) courtroom or room used for court. Ideally, the child viewed any video-recorded statement on a previous day. It is emotionally overwhelming for most children to watch it on the day of testimony as a memory refresher and then again while testifying. Nevertheless, there are occasions when this is required. If you expect to be a support person, do not be in the same room with a witness who is reviewing the video-recorded statement before testimony.

97. Act as a designated support person if desired by the witness

A "support person" is one of the accommodations used upon request by witnesses under 18 years of age. A person who acts in this role will sit or stand near a testifying child, either in the witness box or the CCTV room. A support person enters the courtroom alongside the child, perhaps positioning themselves so as to block view of the accused while passing the defence table and entering the witness box. For testimony in a CCTV room, the support person will sit to face the camera so their facial expressions are visible to everyone watching in the courtroom. It is important that the support person not show signs of prompting or approval/disapproval as the child speaks. Among the advantages of this accommodation is that the child feels less alone and scared and they see a familiar face (especially important when family members are excluded witnesses). During breaks, stay with the child but don't engage in a discussion of the testimony.



Book five of the "A Full and Candid Account" series contains everything you need to know about being a designated support person including tips for the first-time support person and guidance on how to explain the concept to teens.

98. Focus feedback on the "job" done not on the case outcome

In providing praise or positive feedback to young witnesses, focus on their efforts rather than the verdict or sentence. Their job is to do their best. They are not responsible for case outcome.

99. Ensure the family can leave the courthouse safely

A case rarely concludes immediately after the testimony of a child, so the verdict or other decision typically comes later in the day, or even on a subsequent day. Some families stay and watch the entire case, but most are anxious to leave the courthouse once the child or children have testified. If they leave before the case concludes, they will probably not run into the accused in the corridor or outside the building.

100. Inform the family of the next steps

While the involvement of a court supporter typically ends with the verdict or sentence, several issues continue to be of concern to crime victims. Direct the family to the appropriate contact or information as needed about criminal injury compensation, family court matters, any child protection concerns that may arise from the verdict, and information about a victim's rights within the correctional systems.

TOOL BOX IDEA: Material (and knowledge) to have on hand for after the verdict



Your involvement may well end with the verdict or sentence, but a family often continues to grapple with issues over the next months or years. When needed, point them in the right direction and/or have on hand relevant pamphlets and other informational material.

Family law issues

In some cases, legal issues such as child custody and access will continue long after a criminal verdict, as when a child disclosed abuse by a parent. So there could be a family-law case running parallel to the criminal one or the non-offending parent may not have launched a custody application yet. Most provinces and territories have written guidance on separation and child custody, produced by the government or a public legal education agency (e.g., Community Legal Education Ontario, Éducaloi in Quebec or the Yukon Public Legal Education Association). Ontario's FLEW initiative (Family Law Education for Women) has some excellent material. Justice Canada has produced helpful resources on child support and its enforcement, parenting arrangements, and divorce and has an inventory of government-based family justice services on its web site. Also, know how to refer a person for legal aid because some people will qualify for legal aid in some types of cases.

Child protection issues

For situations when an accused poses a risk to the safety of a child or children, be aware of your duty to report to the local child protection authority. Also, advise the non-offending parent about their rights and responsibilities under child welfare laws.

Orders of protection

Depending upon the province or territory in which you live, some victims may be able to pursue what are called generically a protection order or emergency protection order if they feel threatened by someone. They may be used, for example, to empower the police to ask a specific person to leave the home. Any conditions of non-association associated with bail orders typically end with the verdict (but may continue in the form of a probation condition after sentencing).

Criminal injury compensation

Most Canadian provinces have schemes to compensate qualifying victims for costs associated with a crime, including therapy and possibly out-of-pocket expenses directly attributable to the victimization. Some families may be interested in pursuing applications for this financial assistance. The name of the program, criteria, application process and type of award varies across the provinces. Have on hand any pamphlets or application forms used in your province.

Victim input into conditional release

Anyone sentenced to incarceration will serve his or her time in the federal correctional system (if two years or more) or in the provincial / territorial correctional system (if less than two years). Some crime victims want to submit information, such as victim impact statements, to aid in case planning and release decisions. In the case of federal sentences, consult the "Victims of Crime" section of the Parole Board of Canada's web site (www.pbc-clcc.gc.ca). Victims registered with PBC qualify for services and information, such as the ability to attend parole hearings and the right to be notified of releases. They have a toll-free number: 1-866-789-INFO. Also find information on victimsmatter.gc.ca and at the Office of the Federal Ombudsman for Victims of Crime (www.victimfirst.gc.ca).

Counselling resources

Have on hand pamphlets and informational material on local counselling agencies.

One Final Thought

We have reviewed in this document a number of topics to help victim supporters understand and meet the needs of child and teenaged witnesses. This information should inform their efforts at both pre-court preparation and day-of-court support. Here is one final thought we leave you with.

101. Children want to be good witnesses

It has always been our experience that children take their “job” as witnesses very seriously. They want to testify well and help the judge. They are distressed by the thought that they may disappoint adults and let us down. A child’s brain is not only smaller than an adult brain, it works differently. Even the teenage brain is still under construction. As the adults, we can either increase or decrease the likelihood that a child or teen testifies to the best of his or her ability. We believe that children can be very good witnesses, as long as we adapt our approach, words and expectations to recognize their developmental stage. It’s easier for us to adapt to their needs than for them to adapt to ours.



200 - 254 Pall Mall St.
LONDON ON N6A 5P6 CANADA
info@lfcc.on.ca • www.lfcc.on.ca