

**THE TREATMENT OF CHILD SEXUAL ABUSE VICTIM/WITNESSES  
IN THE MANITOBA CRIMINAL COURT SYSTEM**

A Thesis  
Submitted to the Faculty of Graduate Studies  
University of Manitoba

In partial fulfilment  
of the Requirements for the Degree  
Master of Arts in Sociology

by

Patricia Diane Caine  
Winnipeg, Manitoba, Canada

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MANITOBA CRIMINAL COURT SYSTEM

BY

PATRICIA DIANE CAINE

A Thesis submitted to the Faculty of Graduate Studies of the University of Manitoba in partial fulfillment of the requirements for the degree of

MASTER OF ARTS

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## ABSTRACT

Many Canadian children are victims of sexual abuse. When these crimes against children are reported and processed in the criminal justice system, the child victims are often required to be witnesses. As witnesses children have special needs, due to their age, inexperience and developmental level. The theoretical framework of this study is cognitive-developmental theory. The effect of the physical environment is also included in the theoretical discussion.

This study assessed if the court system in Manitoba treated child witnesses in accordance with their special needs. A comparison was made of the treatment of children in the specialized Family Violence Court and the non-specialized Court of Queen's Bench. The data that was used for this comparison was from the Family Violence Research Project, a two year project that assessed the impact of the Family Violence Court. Specific features of the two courts were compared.

This study established that child witnesses were treated better in the Family Violence Court. The environment of the Family Violence Court was more child-sensitive and child witnesses testified for shorter periods of time to more supportive personnel who treated them in a more age-appropriate manner. As well, cases were processed much more quickly in Family Violence Court. Overall, the Family Violence Court provided a milieu that was more child-sensitive than did the Court of Queen's Bench.



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## INTRODUCTION

Many Canadian children are victims of sexual abuse. In fact, a Manitoba Community Services report (January, 1988) states that the number of reported cases of child sexual abuse is increasing dramatically, particularly since the government began emphasizing the importance of reporting child abuse. Gunn and Linden (1994) report that statistics indicate anywhere from 12 to 38 percent of all women and 3 to 15 percent of all men have been victims of sexual abuse in their childhood. Further, the number of reported sexual abuse cases increased by 50% in Canada between 1977 and 1980 (Hurley et al., 1988). In Manitoba between the years 1990 and 1991, there were 1179 reported cases of sexual abuse (Ursel, 1993). A heightened public awareness of child sexual abuse has resulted from the work of child advocates, special interest groups and feminists (Driver, 1989) and has facilitated the development of a view of children as citizens with rights that should be upheld through legislation (Bala, Hornick & Vogl, 1988).

Child sexual abuse was once treated as a family matter, handled exclusively by social workers who worked for social service agencies (the government and voluntary sector-mandated agencies). Child abuse cases were addressed within family courts. It was not until the 1970s, during feminist consciousness-raising sessions, that widespread sexual abuse

was 'discovered' (Connell, 1974). In the 1980s, legislative and policy efforts to deal with this issue developed and culminated with the 1984 release of the Report of the Committee on Sexual Offenses Against Children and Youths (Health and Welfare Canada, 1984) and the 1985 release of the Report of the Special Committee on Pornography and Prostitution (Department of Justice, 1985). These government reports, also called the Badgley and Fraser Reports respectively, focused on how to define, legislate and assess the indisputable prevalence of child sexual abuse in Canada.

Since then, the sexual abuse of children has become increasingly criminalized and addressed within the criminal justice system, making child protection a legal issue. State intervention and corresponding legislative changes made through the 1980s have improved the status of children, such that children are more readily accepted as credible and reliable sources of information than they were previously. In fact, there has been a dramatic increase in the number of child sexual abuse cases that are heard in criminal court (Bala et al., 1988). As a result, more children are now required to be witnesses in court.

While this trend reflects a growing acknowledgment of children's credibility, it brings with it a need for sensitivity within the criminal justice system to children's cognitive and affective states as they provide testimony. Sexually abused children are faced with coping not only with

the trauma of their abuse, but also with their involvement in the criminal justice system, which tends to magnify the negative impact of sexual abuse (Sas, 1991). The complex, adult-oriented judicial system may intimidate and evoke considerable anxiety and fear in children who, as a result, can have difficulty presenting themselves as reliable sources of information. Expectations regarding testimony, insensitive treatment by lawyers and judges, use of complex language, and court rituals and procedures can contribute to confusion and stress for the child (Yuille, Hunter, Joffe & Zaparniuk, 1993). In order to help child witnesses deal with stress associated with sexual abuse and the court system so they can testify accurately, an understanding is needed of the situational, emotional and developmental issues that can influence children's ability to testify (Hurley et al., 1988).

The increasing criminalization of child sexual abuse has been accompanied by a recognition of these special needs of children, such that the status, importance and limitations of child testimony are being reviewed continuously by academics and people involved in the criminal justice system. The most comprehensive response to the problems associated with child testimony regarding sexual abuse has been the 1988 proclamation of Bill C-15, An Act to Amend the Criminal Code and the Canada Evidence Act (S.C. 1987, c.24) (Hornick, Burrows, Perry & Bolitho, 1992), which followed many years of political lobbying by children's rights advocates for the

recommendations outlined in the Badgley Report (Hurley et al., 1988). Bill C-15 defines the requirements that must be satisfied before a child can testify. First, it states that a child may testify under oath if he or she understands the nature of an oath. If this cannot be demonstrated, the child may still testify if the judge is satisfied that the child will be able to communicate the evidence and can promise to tell the truth. The judge, Crown and defense attorney may ask the child questions about, for example, details of everyday life and the difference between a truth and a lie, to satisfy these requirements.

Bill C-15 also included the following amendments: (1) a screen may be placed between the child and the accused during the child's testimony or the child may be allowed to testify outside the courtroom via a closed-circuit television, (2) the rule that states corroborating evidence is necessary for a conviction was abolished, and (3) the judge's cautionary note to the jury with regard to finding a person guilty without corroborating evidence was dismissed. Bill C-15 also allows for videotaped interviews to be admitted as evidence to supplement the child's testimony (section 715.1 of the Criminal Code). A Manitoba Court of Appeal case (R vs. Laramee) challenged this amendment concerning its constitutionality with regard to the rights of the accused. In June, 1993, the Supreme Court of Canada ruled that children may testify by videotape in sexual assault cases.



According to Bill C-15, judges have the power to impose evidentiary requests that are usually made by the Crown attorney. The Criminal Code has provisions that allow the court to ban publication or broadcast of the identity, or information that could disclose the identity of the victim or witnesses in trials of sexual abuse. Further, a judge can order that the observers in the courtroom leave to minimize their effects on the child's disclosure (Criminal Code, R.S.C. 1985. c.C-46,s.486(1) ).

These amendments have made receiving children's evidence a much less structured process than it was prior to the passage of the Bill. The amendments in the evidentiary and procedural laws, as well as in definitions of offenses, facilitate prosecution of child sexual abuse cases, as well as convictions. They also provide an unspoken acknowledgement that children can be reliable and credible witnesses and that it is inappropriate to apply adult tests for credibility to the evidence of children (R. v. W.(R), [1992] Court of Appeal, Ontario). These legislative changes can help improve the treatment of children in court, as children will then be assessed according to their age and ability.

In Manitoba, additional changes have been made which affect child victims. In 1990, a specialized Family Violence Court (F.V.C.) was implemented in Winnipeg. One of the mandates of the F.V.C. is to recognize that child witnesses

may have special needs and to attempt to provide a comfortable and safe place for children to testify.

Many recommendations have been made in the literature that speak to the issue of the appropriate treatment of children in court (see Sas, 1991; Goodman & Bottoms, 1993). Children are special witnesses because their age, vulnerability, dependency and developmental level place them at a disadvantage relative to adults. These qualities must be considered and accounted for in the courtroom if children are expected to give testimony. A specialized court system designed to be more sensitive to the needs of victims may provide a more comfortable environment for child witnesses.

This study aims to assess if the court system in Manitoba facilitates children providing testimony. In order to make this assessment, a comparison will be made of the specialized F.V.C. and the non-specialized Court of Queen's Bench (Q.B.) in terms of their ability to meet children's needs. This study will compare how children are treated, the role of court personnel and environmental characteristics of the courtroom.

In the following chapter, a theoretical framework based on cognitive-developmental theory will be outlined. This framework will help to provide an understanding of the special needs of children as witnesses. Chapter Two will provide a discussion of the way in which child sexual abuse cases are prosecuted, including a description of the F.V.C. and Q.B.. In Chapter Three, the methodology of the study will be

described. Chapter Four will present the research findings for the data analysis. Lastly, Chapter Five will discuss the conclusions and ramifications based on the research findings. Attention will first turn to Chapter One, the theoretical framework.

## CHAPTER ONE: THEORETICAL FRAMEWORK

### Introduction

The primary theoretical framework of this research is cognitive-developmental theory, which offers an explanation of how a child's intellectual and emotional states and abilities change with age.<sup>1</sup> According to this theory, age, developmental level and experience are primary determinants of children's abilities. Therefore, the demands that can be reasonably made of child witnesses, who generally experience intense examination and are expected to answer anxiety-provoking questions and express themselves coherently and succinctly, may vary according to developmental stage. Cognitive-developmental theory provides an understanding of what can be expected from children of different ages, why children sometimes have trouble comprehending questions and recalling information, how to determine children's ability to testify, and how to treat children in the legal system according to their developmental level (Perry & Wrightsman, 1991).

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<sup>1</sup>The following references provide a detailed discussion of cognitive-developmental theory: Butterworth & Light, 1982; Damon, 1988; Garton, 1992; Grusec & Lytton, 1988; Harris, 1989; Kagan, 1984; Kohlberg, Levein & Hower, 1983; Piaget, 1965; Small, 1990; Smith & Cowie, 1991; and Wadsworth, 1989.

Cognitive-developmental theory, based on the work of Jean Piaget, posits four stages of development during which qualitative shifts in thinking occur. These cognitive changes are seen as underlying development in the linguistic (speech), affective (feelings, values, and emotions) and moral (rules of conduct about right and wrong that guide people's beliefs and behaviour) domains. In the following sections, the course of development in each of these areas will be outlined and the implications of these developmental processes for understanding a child's experience and effectiveness as a witness will be examined<sup>2</sup>.

In addition to developmental factors influencing the child witness, environmental or contextual aspects of the courtroom situation will be examined. As Grusec and Lytton have stated "the interaction between personality characteristic and situation has been found to account for a greater amount of variance than either personality factors alone or situation factors alone" (1988:36). Batterman-Faunce and Goodman (1993) point out that current research on cognitive development emphasizes the importance of situational influences on children's cognitive abilities. Environmental factors, including such things as the physical layout of the

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<sup>2</sup>The use of cognitive-developmental theory in this research is to provide reasonable guidelines to indicate how children differ according to age. The debates in the literature regarding the specificity of the theory are informative, but not critical for this research. For detailed discussion of the empirical support of cognitive-developmental theory, refer to: Chapman, 1988; Flavell, 1993; Osherson and Markman; and Uzgiris and Hunt, 1987.

courtroom and the number of people present during testimony also influence child witnesses.

### Cognitive-Developmental Theory

Piaget's theory of development outlines when and how development occurs. He states that development follows universal patterns, although the rate of progress can differ among individuals. As Wadsworth explains, "Piaget conceptualized development as a continuous process along a continuum" (1989:24). A child gains experience through activity, and it is with activity that a child constructs his or her knowledge.

Piaget organized cognitive and affective growth into four developmental stages: (1) sensori-motor intelligence, age 0 to 2 years; (2) pre-operational thought, age 2 to 7 years; (3) concrete operations, age 7 to 11 years; and (4) formal operations, age 11 to 15 years (Wadsworth, 1989). The ages assigned to each stage are not fixed, but each stage must be completed before progress is made to the next stage. Each of Piaget's four stages is equally important and relevant to our understanding of children. However, for the purposes of this study, stages three and four will be emphasized, as the majority of the present sample are from this age range.

### The Stage of Sensori-Motor Intelligence (0-2 years)

In the first stage of cognitive development, sensori-motor intelligence, children experience their world in a "...perceptual, action-oriented, nonverbal fashion" (Garbarino, Scott & Faculty of the Erikson Institute, 1989:16). During this period, children develop the ability to recognize people and objects. Also, they start to understand causality on a very basic level. That is, they begin to realize that a specific action will cause a specific consequence. For example, a nudge with a foot may make a pillow move (Yarmey, 1979). Sensori-motor development is the foundation of a child's cognitive development, and any further development occurs from the achievements made in this first stage. Children in the sensori-motor stage generally do not have the ability to speak yet, and thus cannot provide testimony in a courtroom. As there are not any victim/witnesses from this age group participating in the courtroom, this stage will not be discussed in detail.

### The Stage of Pre-Operational Thought (2-7 years)

The stage of pre-operational thought is characterized by many developmental advances. Children begin to find new ways to comprehend and control their environment. Pre-operational children begin to develop a relationship with the environment

that is primarily mental, rather than physical (as it is in the sensori-motor stage). There are two children from the sample for this study who fall into this category, both girls. However, it is important to point out that there are children who were abused at the pre-operational age but who did not disclose or enter the criminal justice system until they were older. From this sample, 23 cases, 19 girls and 4 boys, had incident dates indicating victimization in this developmental period.

Cognition. Pre-operational childrens' reasoning is prelogical or semilogical. For instance, they have difficulty understanding that the inherent properties of objects (length, weight, number, volume) do not change despite changes in spatial orientation. They focus on perceptually salient features, rather than the context as a whole (Garbarino et al., 1989). This has implications for a child in court, as details of an event may not be remembered. For example, in a F.V.C. case, a young child testified about a family acquaintance abusing her. The defense lawyer questioned the child on details like the clothing she was wearing and the weather at the time of the abuse. No matter how many cues were offered to the child, she could not place her memories in this sort of context. Young children tend to focus on particular aspects of a situation, thus non-salient features, such as clothing and weather, may not be remembered. Unfortunately, these missing pieces of a memory can be used by



the defense to argue that the child is unreliable. This limitation places pre-operational children at a disadvantage in court because witnesses who remember both central and peripheral details tend to be believed more (Perry and Wrightsman, 1991). Pre-operational children are also incapable of reasoning successfully about sequences of events (Wadsworth, 1989). An understanding of the dimension of time and the ordering of events in a chronological fashion are usually beyond their ability. For example, young children tend to find it difficult to conceptualize time as having a past and a sequence, and understanding time as a unit of measurement to gauge how long an event lasted (Garbarino et al., 1989). This difficulty was illustrated in a F.V.C. case during direct examination. The Crown attorney asked the child how long the accused had fondled her genital area. The child responded with an answer of ten minutes. The Crown then had the child sit and watch the second hand on the clock, to help her to concretize time. The child, after doing this exercise, changed her estimate to two minutes. Perry and Wrightsman (1991) report that children under the age of eight tend to be better at reporting events as having occurred in relation to a routine part of their daily lives, like just before bed or during a television show.

Therefore, adults must be careful not to use adult standards of reference, like time, without understanding how the child defines them. The stringent rules applied to court

evidence to be ordered and sequential is not appropriate for children. Most young children need special attention to accommodate their developmental level. For example, defense lawyers often focus on a feature like time to demonstrate a child's unreliability. But, no matter how many times a child is asked to order the events according to time, the child will not be able to do so, as it is beyond most pre-operational children's cognitive abilities. Child witnesses should not be disbelieved simply because they do not understand adult concepts. The evidence of the victim is crucial to a case, as child sexual abuse cases often rely solely on the child's account. Corroboration, such as witnesses or physical evidence of the abuse are not common (Goodman, Taub, Jones, England, Port, Rudy & Prado, 1992).

In terms of memory, pre-operational children tend to perform better on recognition tests than they do on recall tests (Wadsworth, 1989). While even very young children (4-5 years old) have performed as well as adults on recognition memory tasks, their ability to recall events is much more limited (Ceci, Toglia & Ross, 1987). Further, as they tend to focus on salient features of an event, they do not remember many details. This limitation is significant for the child who must testify in court as the questioning that is directed at the child requires recall ability. Recognition tasks are rarely used. Therefore, children often need assistance to recall events. Acknowledging that children have limitations

is necessary in order for child advocates to develop effective methods of investigation. Identifying areas where children may have weaknesses should not reduce their credibility; it should motivate the adults to find ways to accommodate and account for these potential factors.

Children sometimes make false statements without consciously lying. This can be for reasons of fear, immaturity, poor problem-solving skills or suggestibility (Sas, 1991). Research also indicates that children fabricate even when they know the difference between a lie and a truthful statement. This is particularly true when the statement directly relates to a behaviour (Bussey, Lee & Grimbeek, 1993). For example, a young child may lie to avoid getting in trouble after breaking a lamp. The anticipated punishment for truthfulness can induce children to lie. This is relevant to courtroom research because often children are threatened with punishment if they do not comply with adult's orders. Therefore, children are susceptible to being coerced into making false allegations or threatened into denying something happened. Interestingly, Bussey et al (1993) point out that children's false statements were mostly a reaction to an event that occurred. From this, it can be speculated that if children were to lie about sexual abuse, they are more likely to deny abuse happened, rather than fabricate a false allegation. Further, there is little empirical evidence to

support the claim that children have a propensity for false allegations to a third party (Bussey et al., 1993).

Children, particularly young children, seem to be more susceptible to misleading questions, leading questions and subtle hints than adults (King & Yuille, 1986). When questioned on events they do not remember, young children can become confused and feel pressured to provide an answer. Leading questions can provide the information to fill in the gaps of their memory, easing the pressure put on them to provide detailed testimony. Therefore, court personnel must be very careful with the type of cues they offer young children. This issue will be considered in more depth in the stages to follow.

Language. During the pre-operational stage, children acquire the use of language, as they now have the ability to mentally and verbally symbolize their environment. They develop the ability to represent objects and events through the use of symbols and signs. This is referred to as 'symbolic representation' and enables children to imitate things they have experienced (Wadsworth, 1989). While their language is rapidly developing, it remains limited. For example, they may interpret questions differently than adults. This is due in large part to young children's concrete style of thinking whereby they relate ideas in terms of things they can see or that are tangible. For example, a young witness who is asked "Did Bob hurt you when he touched you?" might

think that the person asking the question is asking if she was physically damaged in any way. Therefore, the child may respond in the negative (if they were not physically damaged), which will minimize the allegation somewhat. The person asking the question, on the other hand, may be asking about the impact of the sexual touch, in both physical and mental terms.

The egocentrism that is characteristic of pre-operational children may affect their communication. They tend to answer questions in a simple and direct manner, not providing details or explanations (Yarmey, 1979). This places young children at a disadvantage in the courtroom. If the adult questioning them does not make an effort to elicit detailed testimony, by asking many questions and providing cues, the children may appear to be unreliable.

Affect. The stage of pre-operational thought is the time when children learn to name and then describe their feelings. They can relate to others by sharing feelings about themselves using language. However, young children are typically unaware of the nature of their emotions. Harris and Olthof (1982) point out that children tend to focus on the emotion-arousing situation, not on their mental states. For example, if during an argument with a peer a child is called a derogatory name that triggers an abuse-related memory, the child is likely to react to the name, perhaps by leaving the situation. The child will probably not connect the word and the feeling.

Analogously, if a defense lawyer uses words that trigger an emotion-laden memory, the child may respond by not answering any more questions.

Although young children have the capability to display pretend emotions through verbal, behavioral or facial reactions and can identify which emotional reactions are appropriate in a given social situation, they cannot conceive that in a given situation they can have two distinctly different emotions at the same time (Harris & Olthof, 1982). For example, children who have been sexually abused are often caught in a confusing emotional struggle. They may both love and hate the abuser and have great difficulty making sense of these conflicting emotions. In court, these children are vulnerable to defense lawyers' strategies of inducing guilt or confusion with questions like, "You love your daddy don't you?".

Pre-operational children have difficulty thinking of ways to change their emotions in distressing situations; they see changing their behaviour as the only solution (Harris, 1989). However, in a situation from which they cannot physically remove themselves, they may turn to a mental escape, so they can intellectually remove themselves from the traumatic event (Hartman & Burgess, 1989). Three types of these survival strategies are dissociation, denial and projection. Through dissociation, children exclude the feelings associated with a traumatic event from their consciousness. Denial is the

refusal to recognize that an upsetting event or feeling has occurred. Projection is the ability to attribute unacceptable unconscious tendencies to an object or another person (Cramer, 1991).

Young children are capable of using these survival strategies, though in general they exist in a limited and mechanical way during the pre-operational stage. For example, denial in early childhood can consist of the child falling asleep in an attempt to deny the traumatic stimuli (Kagan, 1988). In early childhood, projection is manifested in physiological responses. For instance, a young child who has been sexually abused often displays physical symptoms like stomach aches, vomiting, appetite changes, constipation and bed-wetting (Hartman & Burgess, 1989). As children get older, they become capable of projecting on an intellectual level.

The above three survival strategies will be discussed in more detail in the following stages, as it is predominantly older children who exhibit sophisticated forms of them. But, it is important to note at this point that survival strategies can affect the role of young children as witnesses. Even less sophisticated forms of denial and dissociation can affect the ability of children to remember details of traumatic events (Singer, 1990). This may cause them to appear to be unreliable and less credible while testifying.

Morality. The pre-operational child's growing ability to respond to others' feelings and appreciate standards

contributes to the development of moral reasoning. However, at this stage, the child's understanding of morality is based on the most salient aspects of a situation. The pre-operational child's reasoning is 'pre-moral' (Kohlberg, Levein & Hewer, 1983). Rules are obeyed out of fear of authority, rather than out of mutual respect. Rules and social expectations are seen as external to the self (Grusec and Lytton, 1988).

Young children have distinct concepts of punishment and authority, and act to avoid punishment from authority. Most children of this age adhere to adult authority and accept an authority's opinion as valid and correct. This tendency is often exploited by abusers who force children to keep silent by threatening severe punishment. These threats are perceived as reality by young children who cannot distinguish between the logical and the impossible. Also, abusers often can convince children that abuse is normal and commonplace, as they do not have adequate experience to evaluate the situation in any other way.

Pre-operational children, being highly egocentric, are primarily concerned with fulfilling their own needs and tend to disregard the effects of their actions upon others. They make moral judgements based on the consequences of an act, rather than on the intentions of the actor. For example, they may lie in order to protect a loved one or to avoid perceived punishment. If a person who lies is not punished, the lie is



not seen as morally wrong. Furthermore, whatever an adult says is true must be true, as children judge lies to be what authority says are lies (Wadsworth, 1989).

As witnesses, pre-operational children are vulnerable to adult authority and may say what they think adults want to hear and accept what adults say to them. Their dependence on adults makes them vulnerable to suggestion and leading questions (Yarmey, 1979). For example, if a young child's testimony from the preliminary hearing to a trial changes, defense lawyers may challenge him or her with the question "Are you lying now, or did you lie earlier?" The child is likely to believe that this is indeed a lie, as a discrepancy does exist in the testimony and an authority figure is identifying it as a lie. The child's inconsistency, however, may be due to the effect of time on memory and cognition (Perry & Wrightsman, 1991). As children's moral understanding of events becomes more sophisticated, they will be better able to decipher the intentions and expectations of others.

#### The Stage of Concrete Operations (7-11 years)

Children typically enter the third stage of development at approximately the same time that they enter the school system, an environment that facilitates their cognitive development. Significant cognitive gains have been made by

the time a child enters this stage that allow the development of the new abilities described in this section.

There are 33 child witnesses from the sample for this study who fall into this category, 25 girls and 8 boys. However, it is important to note that although some children may be in the concrete operational stage when they are called to testify as witnesses, the abuse they experienced may have happened when they were in an earlier stage. Therefore, their ability to recall events may be limited to the cognitive skills that were available to them at the time of the event's occurrence. From this sample, 34 cases, 29 girls and 5 boys, had incident dates indicating victimization in this developmental period (writer's calculation).

Cognition. During the concrete operational stage, children become increasingly able to apply simple logic to concrete problems requiring an understanding of conservation, seriation (ordering objects by size) and classification. The problem-solving of concrete operational children, however, is limited to concrete (real, observable) objects and events that they have experienced personally. They are not yet equipped to handle abstract or hypothetical situations (Perry and Wrightsman, 1991). Despite their cognitive advances, concrete operational children may continue to focus their attention on salient features of an event and thus not remember non-salient features.

For example, in a F.V.C. case, a nine year old child testified during the preliminary hearing that the accused had no pants on at the time of the offence. During the trial, however, the child said that the accused had his pants down and around his ankles. The child may have been confused as to where the accused had his pants because during the alleged abuse she may have been focusing on a different feature, like the accused's face, rather than on his clothing. Nevertheless, the defense lawyer focused on this inconsistency to argue that the child was an unreliable witness.

Since concrete operational children have a more logical understanding of cause and effect relationships than pre-operational children, they can predict more accurately the impact and ramifications of events and are able to provide correct reasoning for the problems they solve (Wadsworth, 1989). They can reflect on their own thought processes and make inferences based on reasoning about what they know must be true, not what they perceive at the moment (Garbarino et al., 1989). Their declining egocentrism is seen in their growing social perspective-taking ability.

While thinking at this stage is operational (i.e., logical), it remains tied to concrete experience. The concrete operational child has difficulty thinking beyond "what is" to "what could be." For example, child witnesses are often asked "Why didn't you run away from the abuser?" Concrete operational children have difficulty speculating on

why they did not react a certain way and answer a question like this with a response like "I just didn't." Responses like this can make them appear uncooperative or confused during testimony. Concrete operational children may also become defensive when their actions are challenged because they knew the abuse was wrong, but at the same time they could not think of alternatives. Most concrete operational children see compliance and avoidance as their only options (Driver, 1989). Children who come across as uncooperative, confused or defensive are vulnerable to the defense lawyer's attempt to have them deemed unreliable.

Memory improves as cognition develops. This improvement is facilitated by children's increasing ability to organize and solve problems as perception becomes de-centred. Metacognitive development is an awareness and understanding of one's own thinking processes and children learn that strategies, such as rehearsing and categorizing, can aid memory and performance on recall and recognition memory tasks (Harris, 1993). These abilities assist the child in giving accurate testimony based on recall.

However, the child witness's cognitive development that occurs throughout the process of hearing the case can sometimes cast doubt on their credibility. As the court process can take up to two years, there is a considerable amount of time for the child to learn. The things the child learns, including what constitutes good evidence and what

adults expect, affects their recall. For example, a child's first statement to the police often differs considerably from the testimony given during the court trial (Bala et al., 1991). While these differences can be a function of normal development, the defense lawyer usually attributes these differences to inconsistency, deeming the child unreliable.

Accuracy is an important requirement that is central to legal investigations. Not surprisingly, there has been a strong focus in the literature on the reliability of children as witnesses and their susceptibility to suggestion or misleading questions (see Ceci & Ross, 1987; Goodman, 1984; Pipe, Gee & Wilson, 1993). The research on the veracity of children's testimony focuses on children's ability to give evidence. Pipe et al. (1993) found that when children are asked to describe something that has happened using free recall (no prompting), little information is spontaneously offered, but the information is typically very accurate. Further, Batterman-Faunce and Goodman (1993) found that young children report less information than older children or adults. These researchers also found that the younger children's information was accurate, just incomplete.

The legal process, however, requires details in order for allegations to be assessed. Free recall is therefore not likely to be a satisfactory method by which to obtain children's testimony. Methods of eliciting details without prejudicing the rights of the accused must be found.

Typically, the methods used involve verbal and non-verbal cues. However, the effectiveness and limitations of these cues must be considered. These retrieval techniques may increase the amount of detailed information at the expense of accuracy. But, if details are necessary, cues must be given in order to stimulate their reporting of (Saywitz & Snyder, 1993). A resolution must be found as to what is considered leading and what is necessary in order to elicit accurate and detailed testimony. Unfortunately, the research on this issue does not draw any firm conclusions or offer any guidelines, but does offer insight.

Verbal cues involve specific types of prompting to retrieve memories. Children are asked questions such as "What happened first?" and "O.K., he closed the door and then what did he do?", which relate directly to a specific event. These types of questions are frequently used in court but can be considered "leading in nature" (Batterman-Faunce & Goodman, 1993). In other words, the question suggests the answer that is sought. An example of a blatant leading question is, "He took your clothes off, didn't he?" Leading questions should be avoided, as they can result in fabrication or misrepresentation (Goodman & Clarke-Stewart, 1991). Children, as well as adults, may change their reports as a result of leading questioning (Batterman-Faunce & Goodman, 1993).

Research shows that children's accuracy and suggestibility is not an age-related personality trait

determined solely by cognitive maturity. Rather, it seems to be context dependent (Batterman-Faunce & Goodman, 1993). The context includes the topic to be discussed, how safe the child feels and the general physical environment. Therefore, children's testimony may be facilitated or impaired by the courtroom environment.

For example, sexual abuse victims are required to talk about sensitive, traumatizing and embarrassing events. Saywitz, Goodman, Nicholas and Moan (1991) conducted a study that tested children's memories about a physical examination that either involved or did not involve genital touch. They found that older children in the non-genital examination group offered more detailed information than the younger children in the same group. However, the older children in the genital examination group reported the same information as did the younger children in the same group. This suggests that memory ability alone does not determine accuracy and detail. Emotions like embarrassment, for example, can also play a role.

Non-verbal cues include the use of props, like anatomically correct dolls and diagrams, to retrieve information. Pipe et al. (1993) state that non-verbal cues are effective because they can replicate more of the original incident than verbal cues can. For example, showing a young child a doll with a penis and having her act out what happened may be easier than asking questions like "What did you see?"

and "Where did he touch you?" Children tend to be better at acting out what happened rather than verbally describing it. Nevertheless, adults must remain cautious because non-verbal cues can decrease the accuracy of a report. Children have vivid imaginations and models or toys may prompt them to enact incidents other than those from the event in question (Goodman & Aman, 1990)

Concrete operational children are somewhat less susceptible to suggestibility than pre-operational children. This is due in large part to their being less questioning of their own memories and becoming more proficient at noticing and internalizing relevant features of the environment (Duggan, Aubrey, Doherty, Isquith, Levine & Schneiner, 1989). Pre-operational children often agree with adults in a given situation, but concrete operational children are more likely to challenge authority (Goodman & Clarke-Stewart, 1991). When children's memories for an event are good, they may be less susceptible to misleading information. While these achievements do not completely eliminate concrete operational children's suggestibility, older children are more accurate than younger children in their recall and better at resisting suggestions (Goodman & Clarke-Stewart, 1991).

Language. As children become capable of concrete operations, socialized speech develops and they start to use speech to communicate with peers and others (Wadsworth, 1989). Concrete operational children are becoming decreasingly egocentric and



are beginning to understand that in order to express themselves effectively, they must take into account the needs and interests of the listeners (Harris & Olthof, 1982). Their ability to pay attention and reflect on the language they are using enables them to communicate about the past and the future, as well as the here and now.

The cognitive achievements of the concrete operational stage facilitate the development of verbal communication (Garton, 1992). For example, these children can sequence events from first to last, understand the concept of time, solve conservation and reversibility problems, and understand relational terms like "more and less" and "same and different." They can remember and construct the past using references to sequences of events and time. Therefore, they can explain and describe events in more detail than pre-operational children.

Despite decreasing egocentrism and cognitive advances, concrete operational children do make assumptions that inhibit communication. Concrete operational children may assume that the listener can understand them even when their message is unclear. Often, concrete operational children answer simple and concrete questions and give reasonable and factual responses, but tend not to expand on an answer. "As far as he or she is concerned, the answers are sufficient and fully understandable as stated" (Yarmey, 1979:200). This can present difficulties for children who testify as witnesses

because they give their evidence with the confidence that their story is being heard as they mean it to be.

An example of this difficulty was seen in a F.V.C. case involving two young witnesses, aged nine and eleven, who were very withdrawn and appeared embarrassed. The Crown attorney, during direct examination, had each child go through the events of the abuse step-by-step. The Crown specifically asked "Did he touch you anywhere?" and the children answered in full detail. The defense, during cross-examination, had the children go through the same step-by-step recollection, but did not ask the children if they were touched. The children failed to include the allegations of the touches on their own, possibly due to embarrassment and the assumption that because they had said it once they did not need to say it again. The defense successfully argued that the children did not mention the touches in the cross-examination because the touches never happened. Young children tend to believe that adults already know the answers to the questions they ask them. As a result, the children will drastically limit their responses or not respond at all, assuming the adult can fill in the empty spaces (Garbarino et al., 1989).

If children are to be treated fairly in court, the adults must be sure that the children understand the purpose of the inquiry and the meaning of the questions. Interviewing should take the form of question and answer exchanges, in which children are given time to explain themselves (Garbarino et

al., 1989), and adults must ask questions using language the child understands. Questions that are complex or wordy can lead to faulty evidence, while simple questions lead to good evidence (Garbarino et al., 1989). Examples of good questions are: "Did he touch you anywhere?" and "Where did he touch you?" while poor questions would be: "Did he attempt to make physical contact with you?" and "Did he bother you?" The words "make physical contact" or "bother" may mean different things to the child and the adult asking the question. For instance, a child may think that "bother" means annoy, whereas the adult is using it to refer to sexual abuse. Therefore, questions should be direct and without complex sentence structure.

Concrete operational children, like pre-operational children, have a desire to please adults (Goodman & Clarke-Stewart, 1991) but, if carefully interviewed, they can be capable witnesses (Yuille, 1988). Clarification of the meaning of a child's response can be achieved through reflection of the content using age-appropriate language (i.e., words, sentence structure and meaning that children are capable of understanding). A child who remains silent following a question or who gives an awkward response, should be given another opportunity to answer the question in a reworded form. The child's answer should be repeated and the child should be asked if that is what he or she means.

Affect. As egocentrism declines and social perspective-taking ability increases, concrete operational children become better at reading how others feel and how others think about them. They develop the ability to understand why states of feelings change in others. Also, they come to understand that people can have two distinct and even opposing emotions in a given situation (Wadsworth, 1989). For example, the child who both loves and hates her abusive step-father realizes that these conflicting emotions are normal and understandable.

Children's growing sensitivity reflects on themselves, as well. They are more forgiving of their own mistakes and misjudgments. Their sources of self-esteem become more integrated. The acquisition of cognitive and task-oriented skills contribute to developing feelings of well-being, pride, and self-esteem (Harris, 1989). Their rapidly developing metacognitive skills help them to understand what constitutes legitimate praise; they are not easily fooled by false encouragement. As their self-esteem is increasingly vulnerable to the opinions and judgements of others, they may want to please adults and will try to live up to adult's expectations (Garbarino et al., 1989). In the case of child witnesses, it is the writer's experience that an especially aggressive defense lawyer can often successfully confuse and mislead even older children, as they do not want to challenge the authority before them. Also, abusers may threaten harm to others if the child discloses - threats to which concrete

operational children are vulnerable due to the development of guilt (Harris, 1989). Abused children, therefore, are typically vulnerable to pressure by adults to keep silent or to recant their disclosures. When a child discloses abuse, it can be a painful and perhaps embarrassing time, especially if the adults react with shock and disbelief. This reaction is more likely to occur when the accused is a known family member (Goodman et al., 1992). Such cases constitute a majority of reported child sexual abuse cases in the F.V.C. in Winnipeg (Ursel, 1992). The adults' reaction may lead a child to not report or eventually recant a report if the consequences of telling seem worse than the consequences of being abused again (Goodman, 1984). In fact, disclosure can be harder to deal with than keeping the secret because while an abused child has only to manage the information privately, with disclosure other people's reactions must be processed as well. Aggressive and demanding defense lawyers may exploit this situation by suggesting that the allegations will hurt others in an attempt to induce guilt and a recanting of the original allegation.

By the end of the stage of concrete operations, children are able to identify emotions in a complex fashion, linking specific situations to emotional reactions. They understand why behavioral and physiological reactions accompany their emotions and can go beyond the emotion-arousing situation to think about their conscious mental states (Harris & Olthof,

1982). For example, children who break down during seemingly non-threatening questioning can identify why they reacted the way they did.

Recent research indicates that the positioning of the accused can have a paramount effect on the child's being able to testify openly and confidently (Sas, 1991). Goodman et al. (1992) found that children had a difficult time testifying when the accused was in the room with them. As concrete operational children are able to connect their feelings to events, they protect themselves in court. For example, a child who knows that the presence of the accused will silence them can request a screen to block the accuser from sight (though the use of innovative procedures should not be the responsibility of the child).

The ability to identify mental states allows children to develop cognitive strategies to change their emotional reactions (Harris, 1989). Concrete operational children understand that they can change their emotions in distressing situations and that they can hide their feelings from others. In other words, they have learned that they can change their emotional state deliberately (Harris, 1989). The strategies that help concrete operational children cope with trauma include dissociation and denial, which appear in increasingly sophisticated forms (Hartman & Burgess, 1989). Through dissociation, the traumatic experience and its associated emotions are excluded from consciousness. For example, during

an abusive event, a child may focus on the window in her bedroom, which allows her to concentrate on an object (the window), while shutting the physical act and the feelings she is experiencing out of awareness. Dissociation can prevent the anxiety, fear, anger, sadness, depression, hatred, hopelessness, shame and guilt that accompany sexual abuse (Kagan, 1988) from being turned towards the self in the form of self-blame and self-loathing (Singer, 1990).

Dissociation can, however, be maladaptive. First, the child uses a great deal of psychic energy to repress frightening thoughts, feelings, and experiences. Second, important aspects of an experience are forgotten as they are repressed. This void in the memory can disrupt concepts of causality and time, as well as sequences of events. For example, a child who focuses on an object during abusive episodes may have a difficult time answering questions about how long he or she was touched and the particular actions that occurred - details that are often required in order for the testimony to be deemed reliable and credible. Although some repressed information can be recalled with repeated retrieval and rehearsal efforts, affect often remains repressed, "with the result that [children] have good memory for factual details of distressing events but little or no awareness of the emotions that presumably accompanied these events" (Singer, 1990:20).

With regard to children's testimony, recall of affect can be critical because it offers an explanation of why a child acted a certain way. For example, a child may continue to have contact with the abusive adult because she is scared she will be hurt if she does not. If the child does not recall her fear, a defense lawyer could try to argue that there was consensual interaction. Also, blocking affect is incongruent with the stereotype of a victim. A child witness may present as cold and unfeeling. If court personnel (judge, jury and lawyers) believe that an abused child should be emotionally distraught, they may not find the witness credible. It is important that court personnel understand that a child's behaviour may belie his or her emotional state (Garbarino et al., 1989).

Denial, the second major survival strategy of the concrete operational stage, can take two forms. The first form will be explained in full here. The second will be emphasized in the description of stage four presented below, as it is a more sophisticated form common in adolescents. In its first form, denial refers to a refusal to perceive reality by avoiding, distorting, or not seeing an event (Cramer, 1991). For example, a child who is being sexually abused by her mother may be unable to admit that her own mother would really hurt her, as this would mean that her mother does not really love her and that her mother may be taken away. Minimization, a component of denial, is the process of



belittling the significance of an anxiety-arousing event so it does not seem so horrible (Cramer, 1991). A child may minimize her abuse with statements like, "She didn't touch me for very long," "I moved and accidentally sat on her hand," or "She was just washing me really good." Clearly, denial can have a direct impact on children's ability to provide testimony because they may not be able to provide the details necessary for the Crown to prove to the judge that the abuse occurred.

Morality. The development of moral values is linked to affective development; as children experience feelings, they question and redefine the values that give rise to their feelings (Damon, 1988). Concrete operational children typically display conventional morality (Kohlberg et al., 1983). Being less egocentric and more socially aware than they were in the pre-operational stage, they learn to make their own moral evaluations such that they begin to reason about the 'correctness' or 'incorrectness' of actions and the effects of their actions on others. Mutual respect and true cooperation develop (Wadsworth, 1989).

However, the morality of concrete operational children is bound by societal norms. In this stage, children strive to follow the rules laid out by authorities and value social conformity. They learn that the law is important and morality is equated with upholding the law because it maintains social order (Yarmey, 1979). Having identified with or internalized

the rules and expectations of others, concrete operational children view doing one's duty as moral behaviour (Grusec and Lytton, 1988). This belief has both positive and negative ramifications for children as witnesses. On the one hand, it helps children to be good witnesses because they believe that they should tell the truth. On the other hand, this belief may lead children not to disclose abuse following an adult's instruction to protect the family.

There has been an increased acknowledgement of the special needs of child witnesses and their understanding of adult definitions of morality. For example, recent legislation qualifies children under the age of fourteen to be witnesses without having to take an oath (Hurley et al., 1988). Unsworn testimony is permitted after a judge is satisfied that the child can communicate effectively, can understand the difference between telling the truth and telling a lie, and can appreciate the necessity of telling the truth in court. These requirements can be tested by questioning a child in an age-appropriate manner. For instance, while it would not be appropriate for a judge to ask a young child to give a definition of truth, the judge can ask the child a question like "If I told you that your mother is not in the room, would I be telling the truth?" Most children as young as three or four can answer questions posed in this way (Garbarino et al., 1989). Relying on questions that deal with concrete concepts (rather than abstract concepts like

definitions and colour) can ensure that the child has the cognitive capacity to understand the question.

For concrete operational children, intentions weigh heavily in judgements of others. For example, an individual breaking an object intentionally is seen as less moral than the same individual breaking the same object accidentally (Grusec and Lytton, 1988). Intention is also taken into account by children when assessing lies (Wadsworth, 1989). A lie is seen as any declaration a person makes that is not in accordance with objective facts. The greater the discrepancy between the declaration and the objective facts, the more serious the lie is considered to be. Concrete operational children distinguish between telling the truth and lying, and between embellishing and fabricating. A lie is defined as an intentionally false statement, and is seen as wrong even if it goes undetected and unpunished. According to the concrete operational child, punishment for intentionally doing something wrong should 'fit the crime'. As concrete operational children tend to have a clear concept of what honesty is, they can usually understand what an oath is, enabling them to give sworn testimony. This is helpful because sworn testimony still carries far more weight in court than unsworn testimony (Hurley et al., 1988).

### The Stage of Formal Operations (11-15 years)

In the fourth stage, formal operations, children reach their highest level of cognitive development. There are 43 child witnesses, 39 girls and 4 boys, from the sample for this study that fall into this category. This stage has the majority of the children from the sample. It is important to keep in mind that many of these older children are testifying about abuse that happened to them years ago. When incident dates of the abuse are used to classify witnesses, 52 children are included in this category, 48 girls and 4 boys (writer's calculation).

Cognition. This stage is characterized by scientific reasoning, generation and testing of hypotheses, and true understanding of causation. Formal operational thinkers can reason about propositions, formulate hypotheses and solve problems mentally using abstract logic (Wadsworth, 1989). At first, formal operational children have a difficult time combining logic and pragmatism. By approximately age fifteen, they learn that they cannot judge worldly experiences by logic alone and become more practical and realistic.

They also have more control over their attention span, being able to maintain selective attention to relevant information. The ability to pay attention and concentrate facilitates memory, which helps a child provide more detailed testimony. Unfortunately, much of the research on the memory of child abuse victims is not based on situations that are

equivalent in impact to sexual abuse. It is during this stage that children's thinking most closely resembles that of adults. Memory skills are well-developed, information is efficiently organized into categories and remembered over time. The development of these abilities is facilitated by an understanding of seriation (ordering objects by size), metamemory skills (an awareness and understanding of one's own memory process), and increasingly diverse experience. As memory is a construction of what is remembered and what is understood at different stages of cognitive development, memory emerges in a new form at this stage (Yarmey, 1979).

As formal operational children are increasingly able to analyze an adult's intentions, they are less susceptible to suggestion and leading questions than younger children. In fact, by the age of eleven, children were found to be no more vulnerable to suggestion than adults (Cole & Loftus, 1987). But, they are still children, and are hampered by their age and inexperience. Children who are highly aroused by stress or fear are also more susceptible (Goodman & Clarke-Stewart, 1991). For example, a defense lawyer who appears to be kind and supportive may be trying to manipulate the child into altering testimony. Even formal operational children may be deceived by sophisticated legal strategies. Older children remain vulnerable to defense lawyers' attempts to discredit them (Bala et al., 1991). On the other hand, if adolescents believe that the adult questioning them is not on their side,

they can become defensive and unresponsive (Garbarino et al., 1989). This makes them appear to be unreliable and, thus, not credible.

As mentioned earlier, suggestibility is context dependent, not an inherent trait common to all children. Therefore, there must be ways to decrease children's vulnerability to leading questions and to interrogate them without using leading questions. The literature offers insight into this issue, though not any conclusive data. Saywitz and Snyder (1993) point out that the programs designed to prepare children for court are rarely empirically based. Rather, they are based on anecdotal accounts and clinical suggestions. The work of Sas (1991) is an exception to this but it is limited because it does not test the effects of preparation on memory performance. Empirical testing is necessary to distinguish between what is preparation and what is coaching.

The literature does consistently outline conditions under which children are most accurate and least suggestible. One of the first requirements is to warn children that there may be questions that are confusing or difficult to answer and that it is acceptable to say they do not understand the question. This can significantly reduce the effect of misleading questions (Batterman-Faunce & Goodman, 1993). This is important because often children may not ask for

clarification because they are too frightened or nervous (Saywitz & Snyder, 1993).

Another condition required is to provide children with a warm and supportive environment (Batterman-Faunce & Goodman, 1993). This can be achieved by communicating with the children that even adults find court intimidating. Further, a tour of the courtroom and an introduction to the legal process to review the facts of the case can help decrease the anxiety. This reduces children's susceptibility to suggestion because once they learn the expectations and rules of the legal system, it becomes less threatening to them (Saywitz & Snyder, 1993).

Apart from preparing children for court, the adults who deal with them must also be prepared. Until adults are competent to relate to and communicate with children, children will not be able to share their experiences accurately (Saywitz & Snyder, 1993). Court staff must be aware of the developmental changes in language ability and cognition that children experience (Batterman-Faunce & Goodman, 1993) and be trained to use age-appropriate language (Yuille et al., 1993). This knowledge can help adults treat children appropriately, possibly reducing the necessity of asking potentially leading questions (Batterman-Faunce & Goodman, 1993).

Language. Formal operational children become linguistically competent communicators (Garton, 1992). Their continued improvement in all facets of language allows them to

participate effectively in arguments, complex forms of make-believe and questioning. This is indicative of highly developed cognitive abilities to analyze a whole into its parts, form categories, learn and manipulate symbols, use language as a tool, understand and produce sequences of actions, and communicate with others (Small, 1990).

While most adults are in the same cognitive stage as adolescents, adolescents are less experienced than adults, and so are often not as familiar with the pragmatics of language. It is with time and the continuous decline of egocentrism throughout life that these abilities get more refined. Therefore, those adolescent witnesses who are not as experienced as the lawyers who examine them can potentially become confused or misled.

Affect. Formal operational children have a keen sense of how they should treat others and are very sensitive to how other people feel. They become increasingly able to explain their emotions as conscious mental states and to develop cognitive strategies to change their emotional reactions (Harris, 1989). Formal operational children have an advanced ability to cope with emotional distress.

A primary survival strategy used in this stage is a sophisticated form of denial that can lead to the construction of a personal fantasy and, hence, an 'alternative reality' to replace the abusive reality. For example, a sexually abused adolescent may fantasize that one day she will conquer her



father and flee from the house, envisioning herself as a strong and powerful person who is waiting for the right time to rise up and rule her own life and fantasizing that she will be a policewoman after she leaves home, rescuing other scared children. These fantasies are elaborate and developed idealizations; real events are given unusual significance to parallel the fantasy. The creation of fantasies is important to the survival of the child; they "sustain the self and protect the individual from pain" (Cramer, 1991:50) in a situation that he or she is helpless to modify. Children who cannot disclose or avoid the abuse have two choices - to give up or to believe that things are different from the way they are.

Such fantasies are then imposed on reality so that real events are processed according to this alternative reality. Children who fantasize may have long denied their victimization and envisioned themselves as strong and independent. But, in court, they are expected to reveal incidents that portray their vulnerability and dependency. The fantasy they have created contradicts reality. Therefore, full and candid disclosure by these children may be difficult to obtain.

Denial in children does not necessarily lead to long term cognitive or emotional disturbances. However, denial can affect memory, as certain information is ignored and forgotten. If the traumatic experience can be denied, so can

the associated feelings, like fear, guilt and shame. This limits the amount of information a child can disclose during testimony and details necessary for his or her testimony to be deemed reliable and credible may be omitted.

A second survival strategy that is common among formal operational children is projection, through which unacceptable unconscious tendencies are attributed to an object or another person so that painful thoughts and actions are not a part of the self-image (Cramer, 1991). In denial, a mental representation is rejected, but in projection the representation is split. The positive part of the representation is attributed internally to the self and the negative part externally to the object or person (Grotstein, 1981). It is not surprising that projection predominates in late childhood and early adolescence, as advanced cognitive functions are required to exercise this strategy (Cramer, 1991).

Projection is exemplified by an adolescent who is being sexually abused by his mother, but does not want to believe that his mother is bad. He attributes the abusive part of his mother's behaviour onto his stepfather, who hurts the boy and his mother on a daily basis. He thereby separates the abuse from the person who is doing it, his mother. This allows him to love his mother and hate the abuse his stepfather 'makes' his mom do. Therefore, representation of the 'good mother' is separate from the representation of the 'bad mother'.

A child who uses projection as a survival strategy may experience difficulties when being a witness. For example, a child who was committed to minimizing and rationalizing his mother's abuse may have a problem separating what he did to protect himself from what his mother did to him. His apparent confusion could be used by the defense lawyer to argue that his testimony is unreliable and that the allegations are not founded.

While projection can be a useful survival strategy, as the child is able to conceptualize a sense of the 'bad self' and the 'good self' it also results in an alteration of the perception of reality. "To see something that is not there - and, in the case of projection, this something is almost always negative, punishing, and unacceptable - is to distort reality, to suffer a breakdown in reality testing" (Cramer, 1991:76). Alteration of reality leads to a distorted memory of the abuse, making testimony unreliable. Survival strategies may interfere with memory performance (Saywitz & Snyder, 1993). Therefore, there may be many children who are telling the truth but who cannot provide the details that court demands. This is very relevant for courtroom research because it is the children who provide the most detail who are believed the most (Batterman-Faunce & Goodman, 1993).

Morality. The adolescent's ability to think beyond "what is" to "what could be" can contribute to a questioning of the social order and the creation of an individualized set

of moral principles (Kohlberg et al., 1983). However, according to Kohlberg et al. (1983), not all adolescents, or even adults, reach this "post conventional" level of morality.

Many formal operational children remain at the same level of morality as concrete operational children (Grusec & Lytton, 1988). They value obedience to the law because it is the moral fabric of society, a legal contract between society and the individual to maintain the fundamental rights of the people. They willingly conform to the values and beliefs of the larger population because it is in the best interest of the community (Yarmey, 1979). However, identity development during adolescence can lead to a differentiation of the self from the rules and expectations of others, and values can come to be defined in terms of self chosen principles (Grusec & Lytton, 1988).

While adolescents are not as strongly influenced by authority as younger children (Cole & Loftus, 1987), older children still can be affected by the court process, just as most adults can (Saywitz & Snyder, 1993). To lessen its negative impact, all children should have the details of the court experience explained to them (Sas, 1991). This will help them to understand the roles court personnel have, the procedures that will be followed, the expectations placed on them, and will give them the opportunity to ask questions prior to court (Hurley et al., 1988).

At this stage, lies are defined as the intentional act of one person to deceive another person. Most formal operational children have an adult understanding of the distinction between truth, errors and lies (Yarmey, 1979) and can fully understand the significance of a court oath. Typically, formal operational children take oaths, though Section 16 of the Canada Evidence Act allows children under the age of fourteen to testify on a promise to tell the truth. Formal operational children's understanding of honesty can lead them to become defensive, agitated or silent when defense lawyers become aggressive and challenge them about the truthfulness of their allegations (Garbarino et al., 1989).

Adolescents have the metacognitive ability to predict their own behaviour and understand why they act the way they do. This helps them to explain their actions and attitudes while being questioned during testimony. For example, if challenged as to why they continued to have contact with the accused when they knew that the abuse was wrong, adolescents can explain that they were too scared to do anything else.

The ability to express themselves succinctly can be a tremendous benefit, as adolescents can try to make people understand their behaviour and feelings. But, it can also hinder their testimony because they could have an answer for everything they are challenged on. This can make them appear too prepared, defensive, and therefore unreliable.

### Older Witnesses (16+ years)

There are witnesses in the sample who cannot be grouped into Piaget's stages because of their age. These are the witnesses who are 16 years of age and older. The older witnesses, with their well-developed metacognitive abilities, face their own obstacles. They can be accused of acting while testifying and fabricating evidence for their own personal gain. Older children are believed to be capable of inventing detailed accounts of sexual conduct because they are more developmentally advanced and experienced than younger children. In fact, adult subjects are more likely to convict a hypothetical defendant when the victim is a child than when the victim is an adolescent or an adult (Goodman, Bottoms, Herscovici & Shaver, 1989). Goodman and Bottoms (1993) report studies that found that child complaining witnesses in sex abuse trials may be perceived as more credible than adult witnesses. The beliefs about older children are quite relevant to this study, as many witnesses in the sample are 16 and 17 years of age. There are 28 witnesses in this age category, 26 females and 2 males.

The present study will also include adults who testified regarding sexual abuse that occurred when they were children. In the sample to be used for this study, there are 19 adults, 18 female and 1 male. These witnesses may face bias and obstacles despite their developmental advantage. In a F.V.C. case involving two sisters who were thirty-one and thirty

years old, respectively, at the time they testified against their step-father who allegedly abused them during their childhood, both sisters gave detailed and consistent statements. The defense challenged them, however, on the books they had read about child abuse and the counselling they had gone through. He successfully argued that they were imagining that the abuse happened, based on the contents of what they had been reading. On the basis of personal experience, the writer speculates that while defense strategies used with younger witnesses focus on demonstrating unreliability, those used with older witnesses focus on misattribution and motive. This is a subtle distinction, as essentially both are being accused of not telling the truth.

In some cases, cognition is confounded by age. That is, the child or adult witness may be developmentally younger than their age or physical maturity would suggest. Such an individual may be questioned on a level that exceeds understanding. For example, an adolescent who is learning disabled or developmentally delayed may have a difficult time answering questions geared to the comprehension of a normally achieving adolescent. In such a case, the child's emotional reactions during cross-examination may be typical of a younger child. Child witnesses who are identified as being developmentally delayed will not be included in the sample, as

they cannot be assessed by the same criteria as normal achieving children.

#### Time, Development and Criminal Proceedings

The literature discussed thus far speaks to the development of children over time. Taking this knowledge into consideration, the writer hypothesizes that the passage of time and the development of the witness can affect children's testimony. First, there is the issue of the age of the child. Although some children may be in a particular developmental stage when they are called to testify as witnesses, the abuse they experienced may have happened when they were in an earlier stage. In the sample for this study, approximately 74% of the witnesses who testified experienced the alleged abuse at an earlier age than their age at disclosure (writer's calculation). The age difference between incident date and time of testimony was sometimes only 1 or 2 years, but in approximately 53% of the cases, it was 2 or more years of difference (writer's calculation). Therefore, their ability to recall details of the abuse may be limited by the cognitive skills that were available to them at the time of the event's occurrence. In cases of "historical" abuse, older children, as well as younger children, may need cues to help them testify.



Second, the processing of a child sexual abuse case from the initial investigation to the trial can take a long time (Bala et al., 1991). Children can learn and develop as their case progresses through the criminal justice system, such that their ability to describe things and communicate matures. Also, through examination and interrogation, children learn what is important to the adults investigating them, what it takes to be a good witness, and get better at interpreting adults' expectations. This can make testimony appear rehearsed and questionable, attributes the defense lawyer will focus on to argue that children are not credible witnesses (Perry & Wrightsman, 1991). Also, children may give evidence at trials that is considerably different from that given at preliminary hearings. This inconsistency may be a function of what was learned during the court process, as well as normal development (Batterman-Faunce & Goodman, 1993).

#### Response to the Courtroom Environment

Children are influenced by more than the people around them. The physical environment of a courtroom can have a tremendous impact on children, as the power of authority is salient throughout it. As VanderZanden explains, "The nature, organization and meaning of various physical settings influence our behaviour and experience" (1987:368). The

concept of personal space helps to describe the relevance of physical surroundings. It explains why we actively maintain an area around ourselves into which others cannot intrude without arousing our discomfort (VanderZanden, 1987). There are many opportunities for child witnesses' personal space to be violated during the court process.

For instance, children are usually seated in the courtroom so that court personnel surround the witness box. Also, the judge is positioned on a level higher than the rest of the people in the courtroom, creating an aura of authority. Court personnel can be intimidating in other ways, as well. Not only are they strangers, but they are also adults. The roles that the personnel serve are often confusing to children. For example, when a child enters the courtroom, one of the first things in sight is an adult wearing a courtroom robe. The robe can carry a powerful message to the child that this is a person in a position of authority. Essentially, for most young children, a man in a robe is not only a man anymore. The robe signifies power and authority, characteristics that easily intimidate children.

The emotions elicited by the courtroom environment can affect children's ability to testify. Children who are feeling intimidated will probably have a more difficult time giving clear and detailed accounts of the abuse. Children must be taught about the roles and etiquette of the court personnel in order to demystify the court experience (Sas,

1991). Furthermore, there are usually people in the courtroom gallery (located at the back of the courtroom) during child witnesses' testimony. These people can be family members of the complainant and the accused, support people, or strangers. In Q.B. there is also a guard present during the trial. In F.V.C. a guard is present only when the accused has been detained in custody and requires an escort to the courtroom or when the accused is likely to be convicted and going to be detained immediately. The public exposure common to child witnesses is relevant, as recounting embarrassing and frightening incidents in public is difficult for children (Sas, 1991). Fortunately, there have been legislative changes that give the judge the discretionary power to ban public attendance to lessen the trauma of testifying.

Knowing that court can be intimidating, there has been the argument made that the presence of a support person on behalf of the child can potentially help the child feel better. Research indicates that children tend to talk more to people they are familiar with or when a support person is present on their behalf (Garbarino et al., 1989). Unfortunately, many children find themselves alone in court because their support person, who is often a close friend or family member, must be excluded from the courtroom because he or she has been subpoenaed as a potential witness. The ramifications of this on the child witnesses' testimony can be

devastating, as children tend to have a difficult time opening up among strangers (Garbarino et al., 1989).

The Winnipeg Child Abuse Witness Program attempts to decrease the number of children who are alone in court by having an appointed adult cover the case and get to know the child before the hearing. This is difficult most of the time, as the Program only has one staff member to handle all of the child abuse cases in both F.V.C. and Q.B.. The Program is very important, as the presence of a support person can help to make children feel safe enough to give complete and detailed disclosure about the alleged abuse.

#### Conclusion

The implications of findings of cognitive-developmental research for courtroom procedures in cases involving children are significant. The characteristics of each stage pose specific limitations for the children in their role as witnesses. Clearly, children who are going to be witnesses have special needs that must be considered in the development of courtroom procedures and the assessment of children's testimony. In the present study, the relative abilities of F.V.C. and Q.B. to adequately address the needs of child witnesses in sexual abuse cases will be examined. In the

following chapter, the manner in which child sexual abuse cases are criminally prosecuted will be discussed, including a description of the F.V.C. and Q.B..

## CHAPTER TWO: THE CRIMINAL PROSECUTION OF CHILD ABUSE CASES

### Introduction

In the 1980s, there was a move towards the increasing criminalization of child sexual abuse, reflected in the release of the Badgley Report in 1984 and the Fraser Report in 1985. Both of these reports focused on how to define, legislate and assess the child sexual abuse situation in Canada.

In Canada, both the child welfare system and the criminal justice system handle child sexual abuse cases. As Hornick et al. (July, 1992) explain:

The circumstances of a particular occurrence determine whether one or both systems become involved. The criminal justice system is empowered to investigate and resolve all cases of sexual assault regardless of the relationship of the offender to the victim...the child welfare system becomes involved primarily in cases where either a child is considered to be at substantial risk of being sexually abused by a guardian or the guardian cannot or is unwilling to protect the child from sexual abuse (12).

### The Civil Court Process

Child abuse cases that are handled in civil proceedings occur in family court. Such cases involve allegations of abuse or neglect in which a child protection agency intervenes

to make the child the subject of court-ordered supervision or having the child removed from the home and made a ward of the state (Hornick et al., 1992). Also, family court handles abuse (physical or sexual) or neglect cases that involve separated parents who are disputing over custody or access to the children (Bala et al., 1991). In general, it is easier to prove abuse or neglect in family court than in criminal court because the rules of evidence are more relaxed in civil court. The standard of proof is lower, requiring only proof "on the balance of probabilities." When child abuse cases are processed in a criminal court they are most likely to be sexual abuse cases (Bala et al., 1991).

#### The Criminal Court Process

Criminal proceedings are different than civil proceedings. Jurisdiction for enacting criminal law and procedure rests in the hands of federal Parliament. The Canadian Criminal Code is the federal legislation which defines the sexual abuse of a child as a criminal offense. The provincial government is responsible for the criminal prosecution of these cases. The primary purposes of criminal prosecutions are the protection of society in general and the social punishment of offenders (Bala et al., 1991).

Criminal proceedings involve using the highest legal standard of proof; the prosecution must prove its case "beyond a reasonable doubt." To ensure that this standard is met, there are evidence rules to be followed and the accused has full protection under the Canadian Charter of Rights and Freedoms. It is a state appointed Crown attorney who presents a criminal case in court. The police are responsible for the initial criminal investigation into a child abuse allegation. They determine whether an offense has occurred by interviewing victims, witnesses, guardians and the accused. The police seize any relevant evidence that will assist the Crown attorney's case, and also charge the alleged offender.

#### Bill C-15, Gender & The Court Process

The increasing criminalization of child abuse has been accompanied by legislative changes, namely Bill C-15. The legislative changes that were introduced in Bill C-15 (discussed earlier) not only acknowledged the special needs of children, but also aimed to eliminate gender bias in the law (Hornick et al., 1992). Prior to Bill C-15, the Criminal Code defined protection by the law differently for boys and girls. For example, fathers, step-fathers and foster fathers were prohibited from having sexual intercourse with daughters, step-daughters or foster daughters, but there was no provision



to protect sons, step-sons or foster sons from mothers, step-mothers or foster mothers (Hornick et al., 1992). Bill C-15 redefined offenses to ensure that all children, regardless of their gender, would be protected. Also, all offenders, regardless of their gender, would be held responsible for their actions.

While the legislation has the intent of removing gender bias from the definition of sexual crimes and their prosecution, there is a definite gender pattern in the sexual abuse of children. First, most sexually abused children are girls, and most perpetrators of child sexual abuse are men (Goodman et al., 1992; Ursel, 1992). In her study of the F.V.C. in Winnipeg, Manitoba, Ursel (1993) reported that 77% of the child victims of sexual abuse were female and 96% of the perpetrators were male. An Alberta based study found that 84% of child sexual abuse victims were girls and 98% of the perpetrators were males (Stephens, Grinnell & Krysik, 1987). Similarly, the 1984 Badgley Report found that men were the suspected offender of child sexual abuse 98.8% of the time, while women were suspected 1.2% of the time (Health and Welfare Canada, 1984). Most investigators consistently report that between 80% and 90% of all sexual abuse victims are female children and the perpetrators are someone they know, usually a father figure (Pierce & Pierce, 1985).

The sexually abused male child is often treated differently than the sexually abused female child. Pierce and

Pierce (1985) found that acts of sexual abuse against boys by men receive harsher sanctions than those involving abuse of girls by men. They postulate that society labels the male offender responsible if he abuses a male, but there are mitigating circumstances if he abuses a female (eg. she was seductive and encouraging). Therefore, sexual abuse of a male child may be viewed more negatively than that of a female child.

A second gender issue that is relevant to courtroom research is the fact that male and female children are socialized differently. Children learn appropriate gender roles at an early age; by age three males are generally expected to be assertive and competitive, while females are to be sensitive, passive and emotional (Mackie, 1987). These gender role differences can have an impact on children's roles as witnesses. Children who appear more like victims by, for example, crying or hiding (characteristics reinforced more strongly in girls than boys) tend to be believed more (Garbarino et al., 1989). The pressure placed on boys in court may be confounded by the fact that they are expected to act not only as victims, but according to their gender as well. They are expected to be assertive, yet emotional. There are many factors that can affect children's ability to testify, including gender.

The recognition of the difficulties facing child witnesses, such as the complex court process and gender

stereotyping, supports the belief that there is a need for legislation, like Bill C-15, to protect children. Further to this, in order for the legislative changes that Bill C-15 encompasses to be implemented and enforced effectively, a child-sensitive court must be in place. The general criminal court system may not provide this proper forum because it was not designed with children's special needs in mind. The question this study seeks to answer is if a specialized court system provides a better structure to meet the special needs of child witnesses than a non-specialized court. In Manitoba, the criminal prosecution of child abuse cases occurs in the specialized F.V.C. and the Court of Queen's Bench. There are distinct differences between these two levels of court. Attention will first turn to the F.V.C..

## Family Violence Court

### Rationale

The F.V.C., in Winnipeg, Manitoba, began operation on September 17, 1990. The implementation of the F.V.C. was a direct result of an increasing awareness of violence in the family and the manner in which these cases should be handled in the criminal justice system. This specialized court is unique in Canada. It is designed to handle domestic violence, including wife, elder and child abuse cases and aims to assist

those victims who must come to court to testify, often against someone with whom they have a personal relationship.

Efforts are made in the F.V.C. to provide support for the victims, thereby minimizing the stress of the court process. This is especially relevant for children, who may not have the same supports and resources that adults do. Further, many of these children are testifying against someone who is a family member or close friend. This can divide their existing support network, as some people may support the accused during the court process. The F.V.C. attempts to provide a more supportive environment for victims. The F.V.C. is less formal than Q.B., not requiring lawyers to wear robes. Also, the physical layout of the courtroom is less threatening, as child witnesses are seated facing the judge, rather than the accused. The goals of the court are:

(1) to increase victim/witness information and cooperation to reduce case attrition, particularly at the prosecutorial level (through a reduction in stays of proceedings); (2) to process cases expeditiously aiming for a three month average processing time from first appearance to disposition; (3) to provide more consistent and appropriate sentencing to better protect the victim, to mandate treatment for the offender where suitable, and to increase monitoring of offenders (through probation services), all of which reinforce the policy of zero tolerance for family violence/violence against women in Manitoba (Ursel, 1992).

### Staff and Special Procedures

To implement and enforce the mandate of the F.V.C., a specialized staff was selected by members of the Court Implementation Committee. They are trained to be aware of the dynamics of child abuse, the needs of the victim, and the legal procedures available to assist victims. Specifically, in child abuse cases, Crown attorneys carefully weigh the available evidence prior to proceeding with the case. As the case must be proved beyond a reasonable doubt, the Crown attorneys' rigid screening of the evidence results in only a small percentage of cases actually proceeding to trial (Ursel, 1993) so that children are protected from unnecessary trauma. Ursel (1993) reports that in Winnipeg, approximately a third or less of the reported cases of child abuse proceed through criminal court. Those cases that do proceed are usually alleged sexual abuse cases involving a male offender. In Manitoba in 1990-1991, 67% of child abuse cases in the F.V.C. involved alleged sexual abuse. The accused was male in 90% of the sexual abuse cases, while the victim was female in 69% of the same cases (Ursel, 1993).

The Crown attorneys are cautious with the cases that they decide to prosecute. Even when they believe that the child is telling the truth, they may decide not to proceed, for in some cases there is simply insufficient evidence or the child is not capable of being a credible witness. Cases that are not processed in criminal court do not necessarily result in the

alleged abuser maintaining custody of the child (if that was the arrangement before the investigation). Instead, many cases of suspected child abuse are handled in civil court (Unified Family Court) through orders of guardianship, with the result that the child can be apprehended from the alleged offender. Ursel (1993) reports that in Winnipeg in 1990-1991, 40% of the cases in civil court were resolved through placement of the child in the care of Child and Family Services.

The specialized staff in F.V.C. originally consisted of three Crown attorneys (in September, 1990). Presently, there are five Crown attorneys assigned to the Family Violence Unit (in 1993). The Unit operates only in the city of Winnipeg at the Provincial Court level (though some Family Violence Unit Crown attorneys occasionally handle Q.B. matters) and only handles criminal prosecutions. These cases follow the strict rules of evidence and procedures described earlier. The onus is on the Crown to prove the guilt of the accused beyond a reasonable doubt.

The Family Violence Crown attorneys work in Provincial Court. F.V.C. cases are heard by select Provincial Court judges. Judges are chosen by key members of the Court Implementation Committee on the basis on their interest and suitability. This prevents lawyers from being able to "judge shop" (e.g., choosing a judge they think is lenient). The F.V.C. Crown attorney has direct day-to-day contact with

groups such as The Child Protection Centre/Child and Family Services, City of Winnipeg Police Child Abuse Unit, Child Abuse Witness Program, and liaisons of the community. These groups help to administer informed and sensitive care to the victims while the Crown attorneys attend to the legal aspects of the case.

#### The Child Abuse Witness Program

Particularly relevant to the handling of child abuse cases is the Child Abuse Witness Program. It was developed to "...provide information, support and assistance to child abuse victims and their supporting family members who may be required to become involved in criminal court proceedings" (Manitoba Attorney General, no date). The Program is funded through the Department of Justice. The staff of the program answer questions and prepare child witnesses for court by means of pre-court interviews and a tour of the courthouse. The Child Abuse Witness Program Director is also involved in making suggestions to improve the court experience for children (e.g., suggesting a new layout of the courtroom). The Child Abuse Witness Program worker becomes involved in the cases when they enter the F.V.C.. The worker will follow a case that proceeds to Q.B.. This can be difficult, however, as there is only one worker to cover both levels of court.

### Processing of Cases

The F.V.C. is designed to accommodate all steps of a case including first appearance, remands, guilty pleas, preliminary hearings and trials. Incoming cases are first put on a list to appear in docket court, also called intake court, as it is here that new cases are first heard. Screening courts were established to assist in the large case load. Screening court handles hearings subsequent to docket court including guilty pleas, remands, and first appearances for family violence cases that were originally mis-assigned to general court. It provides a quick court date for guilty pleas and minimizes unnecessary delays by controlling the number of remands, ensuring that trial dates are set within a month of the hearing in screening court (Ursel, 1993). The processing time for child abuse cases, however, is usually much longer than wife abuse cases due to the fact that these cases can be complex to prepare and prosecute, as there are usually many people and agencies involved that must be interviewed and examined. Also, some F.V.C. child abuse cases are elected to be heard in Q.B., which requires a preliminary hearing first in F.V.C. then a trial in Q.B.. This results in months being added to the processing time (Ursel, 1993). From screening court, court dates are set for preliminary hearings or trials. Put succinctly, there are two avenues for a F.V.C. case to proceed; (i) a trial in F.V.C. or, (ii) a preliminary hearing in F.V.C. and then a trial in Q.B..



Child sexual abuse charges (except aggravated sexual assault and sexual assault with a weapon) are hybrid offenses. This means that the Crown can proceed summarily or by indictment. Indictable refers to serious offenses that carry a maximum penalty ranging from two years to life in jail (Bala et al., 1991). The Crown decides whether to proceed summarily or indictably based on the seriousness of the alleged offence. Both summary and indictable charges can be handled in the F.V.C., whereas charges in Q.B. are always indictable. The Criminal Code of Canada allows the defendant the option to trial in a higher court (Q.B.) when the charge involves an indictable offence. There are different trial procedures for indictable and summary offenses. An accused person charged with an indictable offence is entitled to extra procedural protection, like the right to a preliminary hearing and a jury trial (Bala et al., 1991).

#### F.V.C. Trials

Cases that proceed to trial in F.V.C. are presided over by a F.V.C. judge and prosecuted by a F.V.C. Crown attorney (as described above). Trials are based on the highest legal standard of proof, such that the prosecution must prove the case "beyond a reasonable doubt". F.V.C. cases do not require a preliminary hearing.

### Preliminary Hearings

Preliminary hearings are set if an accused opts for trial in Q.B.. A preliminary hearing occurs in the F.V.C. presided over by a provincial court judge. The Crown attorney calls evidence to demonstrate that there is sufficient reason to proceed with the case to trial in the higher court. The Crown typically calls only those witnesses necessary to show sufficient evidence. The defense rarely calls any witnesses. The same rules of evidence and procedure that apply to trials also apply to preliminary hearings. The child victim is virtually always called to the stand, and is subject to cross-examination by the defense counsel. At the end of a preliminary hearing, the judge decides whether there is sufficient evidence to commit the accused to trial. If evidence is insufficient, the accused is discharged. Ursel (1993) reports that 13% of child abuse cases were discharged at the end of the preliminary hearing. If the accused is committed to trial, an arraignment date is set in Q.B., where a trial date is set for the accused. The cases that do go to trial in Q.B. have been through a rigorous screening process (from initial investigation to the preliminary hearing). Having a preliminary hearing is advantageous to the defense. It is an opportunity for the accused to obtain knowledge of the Crown's case and to decide if he or she should enter a guilty plea without a trial. The defense counsel will also have the chance to question the child. The defense can use

the preliminary hearing transcript at the trial to attempt to identify and elicit inconsistencies in the child's testimony (Bala et al., 1991). A Q.B. trial date is often many months away.

#### Q.B. Trials

Overall, only a small percentage of F.V.C. cases elect to be heard in Q.B.. Ursel (1992) reports that 8% of F.V.C. cases elect to be heard in Q.B.. However, the majority of these F.V.C. cases that go to Q.B. involve alleged child abuse. That is, while only 18% of the total cases in F.V.C. involve alleged child abuse, 55% of the F.V.C. cases heard in Q.B. are child abuse cases (Ursel, 1992). This has serious ramifications for the handling of these cases, as the length of a case in the system increases two to three times (Ursel, 1992) and the child/victim witness is no longer in a specialized court.

The Court of Queen's Bench is a higher court with a separate judiciary appointed by the federal Minister of Justice. Q.B. handles only indictable offenses which must first have a preliminary hearing in provincial court. The strict rules of evidence and procedure followed in a Q.B. trial are the same as the ones that are followed in provincial court. The onus is on the Crown to prove the guilt of the accused beyond a reasonable doubt.

The cases that are processed in Q.B. are subject to more levels of screening than cases heard in F.V.C.. Screening refers to a review of the evidence to determine if the case should proceed. F.V.C. cases are screened at the police level and then by the Crown attorney when the cases first enter the system. The cases which are elected to be heard in Q.B. must have a preliminary hearing, resulting in the evidence being screened again at the judicial level. If the case is committed to trial at the preliminary hearing, the Crown attorney again assesses the strength of the evidence before the Q.B. trial. Q.B. cases, therefore, receive two additional screenings than F.V.C. cases. This could result in Q.B. cases having stronger evidence and/or better witnesses.

## Conclusion

The F.V.C. in Manitoba attempts to acknowledge that there are specific guidelines that should be followed when dealing with child abuse cases. As mentioned, F.V.C. cases are heard by select judges and prosecuted by specially trained Crown attorneys. F.V.C. personnel are trained to be sensitive to the special needs of the children. In Q.B., however, where there is not a specialized team, issues relevant to children's testimony may be neglected. Research shows that a court setting that is designed with the child in mind is more conducive to receiving detailed testimony (Sas, 1991).

Further, the cases that are handled in the F.V.C. usually only require that child victim/witnesses testify once. This makes the process easier for children (Goodman et al., 1992). It also allows F.V.C. to process cases more expediently. This is ensured by judges refusing unnecessary remands and demanding court dates to be set. In cases that are elected to Q.B. however, children must testify at a preliminary hearing and a trial. This can exacerbate the court experience for children as testifying more than once increases anxiety, the case takes longer to process and the potential for discrepancies in testimony to arise increases (Goodman et al., 1992).

In essence, the structural requirements that are necessary to provide an environment better suited for children

includes the physical layout of the courtroom as well as a specialized staff. These structural changes, accompanied by the legislative changes that have been made, may better serve the best interest of children. Chapter three outlines the study that will be conducted to measure the relative effectiveness of F.V.C. and Q.B. in meeting these structural and legislative requirements.

## CHAPTER THREE: METHODOLOGY

### The Goal of the Study

This is a descriptive study, whose major purpose is to compare specific features of the specialized F.V.C. and the non-specialized Q.B. court related to the treatment of child witnesses. Of the cases studied in the F.V.C. Research Project (wife, elder and child abuse), 20% involved child abuse and 67% of these involved child sexual abuse (Ursel, 1993). Of the child abuse cases that were observed by research staff, approximately 80% involved sexual abuse cases (writer's calculation). Therefore, in order to have an adequate and homogeneous sample, the present study will focus exclusively on sexual abuse cases, as research suggests that the impact of sexual abuse is distinctly different than that of physical abuse (Cichetti & Carlson, 1989; Goodman et al., 1992).

There were a small number of victim/witnesses who were adults at the time of testifying about their sexual abuse as children. They will be included in the sample to provide a comparison of court response to current and historical abuse.

## Method of Data Collection

The data used in this study came from the F.V.C. Research Project - a two year project assessing the impact of the F.V.C.. The F.V.C. Research Project followed all wife, elder and child abuse cases that entered the F.V.C.. Details of each case were recorded on specific schedules; this constitutes the full population case study. The data collection techniques employed in the F.V.C. Research Project included schedules to monitor cases. Monitoring refers to the process of recording case characteristics and court procedure while in attendance in court. Two schedules were used while monitoring cases: the child observation schedule and the child abuse monitoring schedule. The cases that were monitored were heard in both the F.V.C. and Q.B.. In the F.V.C. there were both trials and preliminary hearings, whereas in Q.B. there were only trials. F.V.C. trials do not require a preliminary hearing. But, for cases that elect to be tried in Q.B., a preliminary hearing must occur. The preliminary hearing occurs in F.V.C. and then the trial in Q.B.. Cases that were heard in F.V.C. and Q.B. will be compared to see if children were treated differently in the two courts.

The child observation schedule (see Appendix A) was used when child witnesses were observed as they were testifying. It was designed to collect information regarding the child's behaviour, the behaviour of court personnel (judge and



lawyers), and various courtroom setting characteristics. For this schedule, recordings were made of observations including the length of time the child testified, courtroom environment (e.g., where the accused sat, the number of people in the courtroom, the presence of a support person), the child's behaviour (e.g., if child fidgeted, cried, appeared confused or was cooperative), use of age-appropriate language, and supportiveness towards the child (e.g., aggressiveness or patience of attorneys). The observations were made by the research staff present in court.

The child abuse monitoring schedule (see Appendix B) was also completed by research staff observing child abuse cases. The monitoring schedule records case characteristics, court processing and description of the testimony of court witnesses. To complement the schedules, the research assistant also kept detailed notes of the evidence and the courtroom experience. For this study, the monitoring schedule will be used to compare the case dispositions and length of time a case was in the system in F.V.C. and Q.B..

#### Data Collectors

The data were collected by research assistants employed by the F.V.C. Research Project. All research assistants were female university students. After being hired, each research

assistant was given a general introduction to the Project. At this time, the methods of data collection (the schedules) were reviewed and explained. Typically, new research assistants would sit through court cases with an experienced research assistant in order to become familiar with the project and to have the chance to ask questions. The research assistants would meet on a regular basis to discuss any issues or ask questions. This allowed for potential inconsistencies and biases in the data collection to be identified and addressed. It is important to acknowledge that due to the fact there were a number of research assistants, there is the possibility of observer-bias. Based on their personal beliefs and experiences, the observers may have assessed situations differently.

## Sampling

### Sampling Procedures

The sample to be used in this study was drawn from the Family Violence Court Data Set and the Queen's Bench Data Set. Many of these cases did not involve child witnesses, usually because the accused entered a guilty plea. The child testimony included in this study was from both preliminary hearings and trials. All the cases that were monitored in Q.B. were originally from F.V.C.. Of the cases that were

observed by research staff, child witnesses testified in 125 cases, 89 in F.V.C. and 36 in Q.B..

Cases were not randomly selected to be monitored. The selection of cases to monitor was based solely on accessibility. Research staff monitored any case that was being heard when they were present. The goal was to monitor as many cases as possible within the limits of the budget and staff availability (Ursel, 1993). Ursel (1993) explains that random sampling techniques were not appropriate for the F.V.C. Research Project because it was impossible to determine ahead of time what would happen to each case - i.e., whether they would result in stay of proceedings and therefore be ineligible, or end up being disposed concurrently in any one of five courts. A lack of control over these factors would have resulted in a much smaller sample if a random sampling technique was used.

The cases that were monitored are representative of child sexual abuse cases appearing before the F.V.C.. To determine the representativeness of the monitored sample, a comparison of case characteristics was made of the monitored sample and the full population case study. The full population consists of all the cases that were processed in the F.V.C.. Data from these cases were recorded from the Crown attorney case files after disposition. The criteria recorded included details of the incident, the time the case was in the court system and the case disposition (Ursel, 1993). There was no discrepancy

between the monitoring sample and the full population on any of these criteria (Ursel, 1993).

### The Sample

The sample consists of 125 subjects, 92 girls, 14 boys (a child is defined as being 17 years old and younger), 18 women and 1 man. The child witnesses have been classified on the basis of their ages into pre-operational, concrete operational and formal operational groups. Table 1 represents the distribution of cases across preliminary hearings, F.V.C. trials and Q.B. trials. The F.V.C. trials and preliminary hearings are presented separately to identify the number of each type of proceeding that was observed. For most of the data analyses, preliminary hearings and F.V.C. trials will be considered as one group.<sup>3</sup>

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<sup>3</sup>The writer compared preliminary hearings and F.V.C. trials on a variety of variables (i.e., age/sex of witnesses, time in system and time testifying). There were no differences found between the two proceedings. Therefore, they were considered comparable and suitable to be classified as one group.

TABLE 1

## GENDER AND AGE DISTRIBUTION BY TYPE AND LOCATION OF HEARING

Age and Developmental Stages	Type of Proceeding						TOTAL	
	Preliminary		FVC Trial		QB Trial			
	Female	Male	Female	Male	Female	Male	Female	Male
2 - 7 Years Pre-operational	1	0	0	0	1	0	2	0
8 - 11 Years Concrete	15	4	5	3	5	1	25	8
12 - 15 Years Formal	19	3	9	1	11	0	39	4
16 - 17 Years Oldest Children	12	1	5	1	9	0	26	2
18+ Years Adult	9	0	1	0	8	1	18	1
<b>TOTAL</b>	<b>56</b>	<b>8</b>	<b>20</b>	<b>5</b>	<b>34</b>	<b>2</b>	<b>110</b>	<b>15</b>

## Indices

The F.V.C. and Q.B. will be compared by examining the processing of child sexual abuse cases in each court. The features to be compared have been divided into the following categories: (1) court environment, (2) time, (3) court personnel's behaviour, and (4) child's behaviour.

### (1) Court Environment

In order to compare the responsiveness of F.V.C. and Q.B. to the special needs of children and the challenges of processing child abuse cases, the environments of the two courts will be analyzed. The following environmental features of F.V.C. and Q.B. and techniques available to the Crown will be considered:

(a) Modifications to minimize eye contact between the witness and the accused. There are several ways that the accused and witness can be outside each other's line of vision. They include:

(i) The use of a screen. According to Section 486(2.1) of the Criminal Code, if the accused is charged with a sex offense and the complainant is under the age of eighteen, the judge can order that the complainant be allowed to testify behind a screen in order to facilitate full and candid disclosure from the child. This is most needed in cases where the child is extremely frightened and intimidated by the accused. The use

of a screen for children will be deemed as an effort to make testimony easier.

(ii) The use of closed-circuit television. This is outlined in Section 486(2.2) of the Criminal Code. It allows the judge to have the complainant testify outside the courtroom. The testimony of the child can be viewed via a closed-circuit television that is in the courtroom. This is used in cases where the Crown successfully argues that the mere presence of the accused will silence the complainant. The use of a television will be seen as an effort to lessen the negative impact of testifying.

(iii) If the accused is situated outside the child's line of vision. When a screen or other device is not used, this may be because the accused is already situated outside the child's line of vision due to the design of the courtroom. A record was made of whether the accused was originally seated outside the child's line of vision. Having the accused seated outside children's line of vision will be seen as a measure that decreases the stress placed on the children.

This variable will be measured on a nominal (yes/no) scale. An estimate of the association between the use of a modification to minimize eye contact and type of court will be made through a chi-square analysis, or using Fisher's exact test when cell sizes are small.

These variables will be discussed in context of the design of the courtroom. There will be a qualitative account

of the design of the courtroom. The writer will describe the layout of the courtrooms in F.V.C. and Q.B. and compare the location of the witness box and the gallery. The location of the witness box will be used as an indicator of how suitable the courtroom is, with a courtroom that has the child seated outside the accused's line of vision as being the most suitable. This will be used to get a general sense of what kind of courtrooms are common in F.V.C. and Q.B..

(b) The number of people in the courtroom during the child's testimony. A total count of people in the courtroom will be made, including the court personnel, people known to the child and strangers. The total number of people present will be used to determine how many people were present during testimony. The presence of people, particularly strangers, can be negative (Sas, 1991). The average number of people present in F.V.C. and Q.B. will be compared by means of a t-test. A 2-way analysis of variance will be used to see if there are any different main effects or interaction effects.

(c) The presence of a support person in the courtroom during the child's testimony. A support person is usually a family member, friend, Child and Family Services worker or a child advocate. The use of a support person for a child testifying is not covered in legislation expressly. The discretion rests with the judge to allow a support person to be present. The presence of a support person will be used as an indicator of a supportive environment. The presence of support people can



be a positive influence (Sas, 1991). This variable will be measured on a nominal (yes/no) scale. The frequencies of the presence of supportive others, and the identity of them, will be compared between F.V.C. and Q.B.. Fisher's exact test will be used to analyze if there are significant differences between these groups.

### Time

Time refers to:

(a) How long the child witness is on the stand testifying. Separate records will be made of the time children were on the stand during the Crown's examination and the defense's cross-examination and total time on the stand will be calculated by adding the two separate recordings together. The time the child spends on the stand is important because long examinations can be frustrating and tiring, affecting the child's attention span and thus the quality of the evidence. The average time a child spends on the stand in F.V.C. and Q.B. will be compared, as well as the difference in the time the Crown and defense spend examining the witnesses in each court. A t-test will be done on the time to determine if there is a relationship between time, type of court and age of the witnesses. A 2-way analysis of variance for each court personnel will be used to see if there are any main effects of interaction effects.

(b) The length of time the case is in the criminal justice system. This calculation will be made by recording the date of the accused's first appearance and the final case disposition. It will be measured according to approximate weeks in the system. Time can contribute to memory decay and/or new interpretations of earlier events. A comparison of the average processing time in F.V.C. and Q.B. will reveal which court processes child sexual abuse cases quicker.

#### Court Personnel's Behaviour

The behaviour patterns of the court personnel will be observed in order to measure the interaction they have with child witnesses. Court personnel behaviour will be assessed according to:

(a) The use of props. This includes anything children can use in order to help them testify. Commonly used props are anatomically correct dolls, drawings and diagrams. The judge decides if the prop is appropriate and useful to the case, and is not prejudicial to the rights of the accused. A record will be kept of the use of props on a nominal yes/no scale, as well as the type of prop used. The frequency of the use of props by children in F.V.C. compared to Q.B. will be used as an indicator of the effort made by court personnel to accommodate the special needs of child witnesses. A Fisher's exact test will be used to assess if there is a significant difference between the groups.

(b) The degree to which age-appropriate language is used by court personnel during examination. The degree to which age-appropriate language is used by the judge, Crown and defense will be recorded on a scale from 1 to 5, with 1 representing 'no appropriate language' and 5 'no inappropriate language'. During the course of the child's interaction with each court member, the research staff will determine the level of age-appropriate language according to the following criteria: did the question seem confusing, did the question have to be reworded in order for the child to understand it, did the child answer the question or remain silent, and did the adult use complex words and legal jargon. The assessments made by the research staff are global and subjective. This measure will be used as a rough estimate of the language used by court personnel. The average degree to which age-appropriate language was used by the court personnel will be compared to see if there is an association between the use of language, type of court and age of the witnesses. A series of t-tests will determine if there are significant relationships between the use of age-appropriate language, type of court, court personnel and age of the witnesses. A 2-way analysis of variance for each court personnel will be used to determine if there are any main effects or interaction effects.

(c) The degree of supportiveness shown towards the child. During the course of the entire hearing, the supportiveness of the court personnel will be measured according to a five-point

scale, with 1 representing 'not supportive at all', 3 'neutral' and 5 'very supportive'. There will be a separate rating made for each court member. Research staff will subjectively assess supportiveness by the way in which the court personnel interact with the children, with those who are aggressive, impatient and insensitive being not supportive and those who are non-threatening, patient and sensitive being very supportive. The average degree of supportiveness of the court personnel in F.V.C. and Q.B. will be compared to see if there is an association between supportiveness, type of court and age of the witnesses. A series of t-tests will determine if there are significant relationships between supportiveness, type of court, court personnel and the age of the witnesses. A 2-way analysis of variance for each court personnel will be used to determine if there are any main effects of interaction effects.

#### (4) Child's Behaviour

The childrens' behavioral states will be monitored by the research staff during the childrens' testimony. These behaviours will be used as indicators of the child's anxiety level. There is a 4 point scale to rate behaviours, from 'no' the child does not exhibit a particular behaviour to the child exhibits the behaviour 'a lot'. The anxiety scale will include 9 behaviours. This scale is age-appropriate for all

witnesses, as well as homogenous. Separate recordings will be made for each behaviour during testimony to the Crown attorney, the defense lawyer and the judge, resulting in 27 ratings for each child. The average anxiety level in F.V.C. and Q.B. will be compared to determine the association between child witnesses' behaviour, who they were interacting with, their age and type of court. A series of t-tests will estimate the significance of this association. A 2-way analysis of variance for each court personnel will be used to determine if there are main effects or interaction effects.

These recordings only identify the anxiety level of the child witnesses. Conclusions cannot be drawn as to why the children behave a certain way, as behavioral and emotional states do not necessarily reflect reality. If I find more anxiety in one of the courts, I can only speculate that such differences are a result of court differences. I will discuss the relation between the behaviours of children and the other variables. For example, if there is a lot of anxiety in Q.B. trials, are the other variables consistent with this (e.g., no support people present, use of age-inappropriate language). This will allow me to look for correlations among the children's behaviours and the other variables and help draw conclusions.

As noted throughout the discussion, the above variables will also be analyzed according to the age of the child witnesses. Age has been identified as a major factor in the

ability of children to be witnesses. Age must be taken into account in order to identify the interaction age has with each variable. Adults will not be included in most of the analysis, as they are not applicable to the indices being considered. Their inclusion would skew the data. For example, the use of age-appropriate language is not applicable to adults. Therefore, the adult subjects will only be used when the analysis of the index 'time' is done. Based on the indices to be used in this study, specific hypotheses were generated.

### Hypotheses

The indices discussed above provide the means necessary to make a comparison of the treatment of child witnesses in F.V.C. and Q.B.. The manner in which child witnesses are treated will reveal whether specialized court better meets the needs of children as witnesses than Q.B..

It is predicted that the comparison of F.V.C. preliminary hearings and trials to Q.B. trials will reveal differences between the two courts. It is anticipated that:

- (1) The accused will be seated outside the children's line of vision more often in F.V.C..
- (2) F.V.C. personnel will be more likely to use legislative procedures to shield the victim from the accused (i.e., screen, closed circuit television) than Q.B. personnel.

- (3) Fewer people will be present during children's testimony in F.V.C. cases than Q.B. cases.
- (4) Child witnesses will have support people present during testimony more often in F.V.C. than in Q.B., particularly younger children.
- (5a) Witnesses in F.V.C. cases will be required to testify for shorter periods of time than witnesses in Q.B. cases.
- (5b) Defense lawyers will examine witnesses for longer periods of time than Crown attorneys.
- (5c) Younger witnesses will be required to testify for shorter periods of time than the older witnesses.
- (6) F.V.C. cases will be processed more quickly than Q.B. cases.
- (7) Props (i.e., dolls and diagrams) will be used more often by F.V.C. personnel than Q.B. personnel.
- (8) F.V.C. personnel and Q.B. Crown attorneys will use more age-appropriate language, particularly with younger children.
- (9) F.V.C. personnel will exhibit more supportive behaviour towards child witnesses, particularly the younger ones.
- (10a) Child witnesses, especially younger children, will have a higher level of anxiety in Q.B. than they do in F.V.C..
- (10b) In general, child witnesses will be more anxious with defense lawyers than with Crown attorneys.

These hypotheses reflect the general prediction that F.V.C. will better meet the special needs of children by

creating a more child-sensitive court process. The analyses of these hypotheses will be discussed next in Chapter Four.



## CHAPTER FOUR: ANALYSIS OF DATA AND RESULTS

In this section, I will compare F.V.C. and Q.B. according to specific indices. Q.B. was chosen as the comparison group because it is the only other court that handles criminal charges of sexual abuse against children. The indices include features that are common to both of the courts. They are: (1) court environment; (2) time testifying and time case was in the system; (3) court personnel behaviour; and (4) child's behaviour. The two courts will be compared to determine if there is a difference in the way witnesses are treated in the two courts. It is hypothesized that F.V.C. will be more sensitive to the special needs of children than Q.B. because F.V.C. is a specialized court system with a victim-focused approach to the administration of justice, whereas Q.B. is not.

Two issues that must be addressed in order to determine the validity of the study are representativeness and comparability. The cases that were monitored are representative of cases appearing before the F.V.C.. In order to determine the representativeness of the sample, Ursel (1993) compared the case characteristics of the child abuse monitoring data with the characteristics of the tracked cases. The tracked cases accounted for 78% of all disposed cases. No discrepancies between the two were discovered. Therefore, the

smaller sample (the monitoring data) is representative of the larger population (the court population data).

On a number of critical dimensions the cases heard in F.V.C. and Q.B. were comparable. All the cases involved allegations of child sexual abuse. As well, the age distribution of the witnesses in both courts was similar. Table 2 indicates the percentage distribution of the age of the witnesses by court and gender. A chi-square analysis of the age of the witnesses and type of court found no significant relationship between the two groups (chi-square= 4.59, df= 2, p= .06). As well, statistical comparisons were run on most of the variables (e.g., gender, age, nature of the charges and time testifying) in order to empirically assess comparability. No significant differences were discovered.

However, there were two general areas in which differences did emerge. First, the Canadian Criminal Code specifies that only in cases of indictable offenses can the accused opt for trial in Q.B.. As a result, all Q.B. cases involved indictable charges. In comparison, in this study, 85% of the cases heard in F.V.C. involved indictable charges. Typically, most child sexual abuse cases involve charges that are considered serious (i.e., indictable). Nevertheless, there is a 15% difference in the rate of indictable charges in cases heard in the two courts.

Second, as mentioned in Chapter Two, the evidence in Q.B. cases is screened more than the evidence in F.V.C. cases.

F.V.C. cases are screened by the Crown attorney when they first enter the system. The Crown assesses the strength of the evidence and whether the child is capable of being a good witness. Q.B. cases receive this initial screening, but they are also screened at the preliminary hearing by a provincial court judge and then again by the Q.B. Crown attorney before it goes to trial. The screening process results in cases with the strongest evidence and the best witnesses going to Q.B.. Ursel (1994) reports that in the first year of F.V.C. only 8% or 142 of the 1,800 cases which began in the specialized court proceeded to trial in Q.B.. In the second year only 5% or 136 of the 2,660 F.V.C. cases proceeded to trial in Q.B.. Therefore, it would make sense to expect Q.B. witnesses to outperform F.V.C. witnesses. However, the hypotheses to be tested are based on the assumption that specialization will create a sufficiently child-sensitive environment to moderate these effects, making it possible for children to perform as well, or better, on the witness stand in F.V.C. as they do in Q.B..

Although F.V.C. proceedings are not equivalent to Q.B. trials, they are similar in terms of the legal process the child witnesses experience (testimony). Based on these similar case characteristics, F.V.C. and Q.B. cases are arguably comparable. By establishing the comparability of F.V.C. and Q.B., it can be assumed that if differences are

revealed after data analysis, they are due to court differences, not case differences.

The sample being used for this study includes 125 subjects, 110 females and 15 males. As Table 2 presents, the witnesses ranged in age from 7 to 31. Central to the discussion in this study is the issue of age. Age is a significant factor when dealing with child witnesses who are required to testify in court. Based on a witnesses age, different cognitive and linguistic expectations should be made of him or her. For example, more detail and sequencing of events should be expected from a 14 year old witness than a 7 year old witness. Failure to acknowledge the importance of the age of child witnesses in their ability to provide testimony would result in an incomplete assessment of them.

**TABLE 2**  
**PERCENTAGE DISTRIBUTION OF AGE OF CHILD WITNESS**  
**BY COURT AND GENDER**

AGE OF WITNESS	TYPE OF COURT			
	F.V.C. (N=89)		Q.B. (N=36)	
	FEMALE	MALE	FEMALE	MALE
7-11 YEARS	23.6% (21)	7.9% (7)	16.7% (6)	2.8% (1)
12-15 YEARS	31.5% (28)	4.5% (4)	30.6% (11)	0% (0)
16-17 YEARS	19.1% (17)	2.2% (2)	25.0% (9)	0% (0)
18-31 YEARS	11.2% (10)	0% (0)	22.1% (8)	2.8% (1)

The witnesses were recoded into 3 groups for statistical purposes. They are: group 1 (7-15 years), group 2 (16-17 years), and group 3 (18-31 years). The variable age was recoded into three groups to allow statistical analysis to be made, as the original variable would not have had enough subjects per group to allow for it. Adults were not included in the analysis of variables, except with the index related to

time (time testifying and time case in system). It was not appropriate to include adults in the other analyses because the variables did not apply to them (e.g. one cannot assess the use of age-appropriate language with an adult). Inclusion of adults would have skewed the data.

The cases were heard in two courts, F.V.C. and Q.B.. The cases in F.V.C. were either preliminary hearings or trials. All cases in Q.B. were trials. Table 3 provides the percentage distribution of the types of cases included in the sample.<sup>4</sup> In the analysis of the data, preliminary hearings and F.V.C trials are combined into one group, representing the F.V.C. proceedings that are to be compared to the Q.B. proceedings. The writer statistically compared preliminary hearings and F.V.C. trials on a variety of variables, including age, gender, time case in system and time testifying, and found no significant differences. Therefore, they were deemed comparable and able to be classified as one group.

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<sup>4</sup>There are 7 child witnesses in the sample who have both a preliminary hearing and Q.B. trial. Therefore, they are considered subjects in both the F.V.C. sample and the Q.B. sample.

**TABLE 3****PERCENTAGE DISTRIBUTION OF TYPE OF HEARING**

TYPE OF HEARING	DISTRIBUTION	
	#	%
Preliminary	64	51.2
F.V.C. Trial	25	20.0
Q.B. Trial	36	28.8
<b>TOTAL</b>	<b>125</b>	<b>100.0</b>

The experience of the children in the two courts will be compared to test the overall hypothesis that F.V.C. will be a more child sensitive environment than Q.B.. Data were analyzed using Statistical Package for the Social Sciences (S.P.S.S.). The data includes numerical and percentage differences for the two courts. Where possible, tests of statistical significance were made. A .05 level of significance was chosen, and if the value obtained is less than .05, there is a significant relationship between the variables that were analyzed. The value (p) obtained was divided by '2', as these were one-tailed tests. In the interpretation of the data, there are considerations to be made. Usually, when there was a large difference in the means between the two groups being compared a significant

relationship was found (i.e., the 'p' value was less than .05). However, there are exceptions to this general rule. First, if there was a large difference in the size of the two groups being compared (e.g., group one has 54 subjects and group 2 has 6) a significant relationship may not be found. Second, if the standard deviations of the two groups were considerably different, a significant relationship would likely not have been found. In exploratory studies like this one, cell size and standard deviation can affect the chance of a significant relationship being discovered.

### Research Findings

Various indices, which were designed to measure the sensitivity of the courts to the special needs of the child witnesses, will be considered. These indices are court environment, time testifying and case time, court personnel's behaviour and child's behaviour. The results of the data analysis will be presented according to these indices and the hypotheses that relate to them.

#### Court Environment

The courtroom environment is a very important factor to consider, as research indicates that the setting in which



testimony occurs can affect the ability of the witnesses to give full and candid disclosure of evidence (Sas, 1991).

The environment of the two courts will be analyzed in order to compare their responsiveness to the special needs of child witnesses. The environmental features include; (1) positioning of the accused, (2) modifications to minimize eye contact, (3) the number of people in the courtroom during testimony and (4) the presence of support people. The analysis is based on cases in which the witnesses were children. Adults were excluded because the environmental features are designed to meet the needs of child witnesses. The tables in this section are based on 106 cases, or less if there were missing data. Four hypotheses were formulated to evaluate this index.

Before discussing the analysis, it is important to point out that in order to fully understand the findings for Hypotheses 1 to 4, they must be discussed in relation to the physical design of the courtroom. The use of the provisions provided in Bill C-15 is determined in part by the layout of the courtroom.

In F.V.C. courtrooms, the witness box directly faces the judge. Diagram A (see Appendix C) illustrates the layout of a typical F.V.C. courtroom. The lawyer's tables are to the left and right of the witness box and the gallery is behind it. Typically, the accused is seated at the defense table or in the gallery. Therefore, the accused would be seated to the

side of or behind the child witness. In contrast, Q.B. courtrooms usually have the witness box situated beside the judge and facing the lawyer's tables and the gallery, as Diagram B (see Appendix C) indicates. The accused is commonly seated at the defense table, which places him/her directly facing the child witness. As the diagrams indicate, there is a prisoner's box in the courtroom for the accused. This is used only when the accused was detained in custody (which is seldom).

Therefore, there seems little need in F.V.C. to utilize the provisions provided in Bill C-15. The modifications made possible by Bill C-15 would be of greater significance and more necessary in a formal court setting like Q.B., as more children in Q.B. can see the accused while they were testifying.

Ursel (1993) points out that Crown attorneys are reluctant to use screens or televisions because the constitutionality of their use is still being debated in the courts. They could provide the defense with a basis for appeal. Furthermore, screens have been found to be distracting for the child, as the child imagines the accused behind it. Nevertheless, too many children seem to be exposed to the undue stress of having to see the accused while giving testimony. The most sensible solution, which Ursel (1993) also points out, would be to schedule all child sexual abuse trials in rooms that do not have the witness box facing the

accused. This would be most attainable in F.V.C.. The first step in the data analysis was to determine how many child witnesses were seated in the accused's line of vision. Based on the qualitative description above, more children were expected to be in the accused's line of vision in Q.B..

Hypothesis #1

THE ACCUSED WILL BE SEATED OUTSIDE THE CHILDREN'S LINE OF VISION MORE OFTEN IN F.V.C..

As described above, the layout of F.V.C. and Q.B. courtrooms are dramatically different. In F.V.C., the witness box rarely faces the accused, whereas in Q.B., this is commonly the case. Therefore, in Q.B., measures would have to be taken in most cases to prevent the victim from having to face the accused (i.e., legislative procedures or a request to move the accused).

Table 4, shows the relationship between type of court and if the accused was seated outside the child's line of vision.

**TABLE 4**  
**PERCENTAGE DISTRIBUTION OF TYPE OF COURT**  
**BY LOCATION OF ACCUSED**

TYPE OF COURT	ACCUSED OUTSIDE LINE OF VISION	
	YES	NO
F.V.C. N= 79	67.1% (53)	32.9% (26)
Q.B. N= 27	18.5% (5)	81.5% (22)

Chi-square 19.16    df 1    significant .000005

Of the 106 cases included in the analysis, 32.9% of the F.V.C. witnesses could see the accused, whereas 81.5% of the Q.B. witnesses could see the accused. A significant relationship between type of court and location of accused was found. The few children in Q.B. who were not in the line of vision of the accused (18.5%) were situated in that manner due more to circumstance than to it being planned. Either the accused was seated behind a physical barrier (e.g., a podium or post) or the courtroom was not the usual Q.B. layout. In F.V.C., the children who were in the line of vision of the accused were also usually victims of circumstance. For example, the case may have been heard in a courtroom that was typically not used in F.V.C. cases (i.e., where the witness box faced the accused). Having 81.5% of the child witnesses in Q.B. in the line of vision of the accused is a significant discovery. It clearly distinguishes the child's experience as a witness in

F.V.C. from Q.B.. Research shows that testifying in such circumstances is intimidating and difficult because the child witnesses become highly aroused by their stress or fear (Goodman & Clark-Stewart, 1991). Q.B. is clearly a more stressful environment than F.V.C., according to this variable. Fisher's exact test was used due to the small number of cell sizes in the Q.B. sample. No significant differences were found. In general, a comparison of percentages revealed that younger children, who are arguably more vulnerable than older children, faced the accused less often. Younger children are more vulnerable due to their inexperience and dependency.

Rectifying this stressful situation, however, is not difficult to accomplish. A simple answer would be to have the accused or the victim move to another part of the courtroom. Another answer would be for the Crown attorney to request the use of a legislative procedure to shield the victim from the accused. Legislative procedures include screens and closed-circuit televisions. Both of these options are readily accessible. The use of legislative procedures will be discussed next.

Hypothesis #2

F.V.C. PERSONNEL ARE MORE LIKELY TO USE LEGISLATIVE PROCEDURES TO SHIELD THE VICTIM FROM THE ACCUSED (I.E., SCREEN OR CLOSED-CIRCUIT TELEVISION) THAN Q.B. PERSONNEL.

The literature states that child advocates (e.g., Crown attorneys, court-appointed support people) frequently argue for the use of innovative techniques to reduce the stress on the children and to elicit the most complete and detailed testimony from children (Goodman et al., 1992). The writer speculates that there will be more child advocates in the F.V.C. system than in Q.B., resulting in a higher rate of use of innovative procedures. In court, there will be many cases that require procedures which would shield the victim from the accused. The frequency of the use of such procedures was expected to be high. Table 5 presents the frequency distribution of the use of innovative procedures in F.V.C. and Q.B..

**TABLE 5**  
**PERCENTAGE DISTRIBUTION OF PROCEDURES USED TO SHIELD**  
**VICTIM FROM ACCUSED BY TYPE OF COURT**

TYPE OF COURT	LEGISLATIVE PROCEDURE			
	SCREEN		TELEVISION	
	YES	NO	YES	NO
F.V.C. N= 79	0% (0)	100% (79)	2.5% (2)	97.5% (77)
Q.B. N= 27	3.7% (1)	96.3% (26)	0% (0)	100% (27)

Table 4 indicates that there was one screen used, and this was in Q.B.. Further, there were two closed-circuit televisions used, both in F.V.C.. Fisher's exact test was used due to the small cell sizes. No significant differences between these groups were found. As the means indicate, the frequency of using these procedures is low in both courts.

While neither court utilized procedures to shield the victim from the accused, the difference in design of the courtrooms results in a greater need for such shields in Q.B. than F.V.C.. As described above, children are more likely to be in the accused's line of vision in Q.B., simply due to the layout of the courtrooms. In F.V.C., it is possible for the children to enter the courtroom, give testimony and exit without seeing the accused (the Crown attorney can walk with the child and block his or her vision). This is not as

possible in Q.B.. The infrequent use of screens and closed-circuit television, particularly in Q.B., is evidence that Bill C-15 provisions are not being used to lessen the impact of attending court.

While there is legislation provided for particular proceedings to shield the victim from the accused, the Crown attorney also has the opportunity and the right to introduce other mechanisms to do this. Most often this entails the Crown attorney requesting that the accused be seated somewhere other than the child's line of vision. (e.g., in F.V.C., if the accused was seated in the gallery, the victim could easily avoid eye contact at all times). These types of requests are relatively simple and quick, making them ideal measures to use. It is very telling that these procedures are not utilized in Q.B.. This seems to suggest that Q.B. personnel are not as sensitive to children's needs in the courtroom as the legislation would permit them to be.

The first two hypotheses discussed looked at the extent to which child witnesses had to face the accused while giving testimony and the procedures available to shield the witnesses from the accused. There are other environmental features that can affect children's ability to testify openly and confidently. One such factor is the number of people in the courtroom while the children are testifying. In keeping with the expectation that F.V.C. is more child-sensitive than Q.B.,



fewer people are anticipated to be present at F.V.C. proceedings.

Hypothesis #3

FEWER PEOPLE WILL BE PRESENT DURING CHILDREN'S TESTIMONY IN F.V.C. CASES THAN Q.B. CASES.

The presence of people, particularly strangers, can have a negative impact on children's ability to testify (Sas, 1991). The first step of this analysis was to determine the total number of people present during proceedings in F.V.C. and Q.B.. Table 6 presents the data for a series of t-tests that were done to see if the number of people in the courtroom during the child's testimony was related to type of court or age.

**TABLE 6**  
**CONTRAST IN MEAN RATINGS OF NUMBER OF PEOPLE IN THE**  
**COURTROOM AND COURT TYPE OR AGE OF WITNESS**

TYPE OF COURT	NUMBER OF PERSONS IN THE COURTROOM		
	ALL AGES <sup>1</sup>	7-15 YEARS <sup>2</sup>	16-17 YEARS <sup>3</sup>
F.V.C. (n=79)	8.5	8.9	8.0
Q.B. (n=27)	9.3	10.1	7.6

- |               |         |         |         |
|---------------|---------|---------|---------|
| 1. All ages:  | t= -.71 | df= 104 | p= .240 |
| 2. 7-15 yrs:  | t= .54  | df= 77  | p= .295 |
| 3. 16-17 yrs: | t= 1.45 | df= 25  | p= .080 |

In F.V.C., the average number of people present during the child's testimony was 8.5 and in Q.B. it was 9.3. There was no significant relationship between type of court and number of people. Compared to Q.B., the mean number of people was a little lower in F.V.C.. When controlling for the age of the witnesses in F.V.C. or Q.B., again no significant relationships were found. In F.V.C., witnesses of all ages had approximately the same number of people present during testimony as did the witnesses in Q.B.. A 2-way analysis of variance (number of people in courtroom by court and age) found no main effects, nor any interaction effects.

The values found in the analysis are somewhat higher than expected. The presence of 8-10 people can be quite influential. The similar values found for F.V.C. and Q.B.

indicates that in both courts the issue of the presence of people during children's testimony is not addressed as a serious matter.

The next step in the analysis was to determine the identity of these people. While it is believed that having a large number of people present during testimony is intimidating, a distinction is made in the literature between the public at large and support people who are there for the witnesses. Support people can serve as positive influences for children (Sas, 1991).

#### Hypothesis #4

CHILD WITNESSES WILL HAVE SUPPORT PEOPLE PRESENT DURING TESTIMONY MORE OFTEN IN F.V.C. THAN IN Q.B., PARTICULARLY YOUNGER CHILDREN.

The averages calculated above were further analyzed to determine if the people were support people, and if so, their relationship to the witnesses. In considering the presence or absence of support people in the courtroom, identifying the relationship between the child and the support person is also important. Different relationships offer different types of support. The writer distinguishes between the nature of the relationships, with parent and guardian relationships being seen as more supportive than relationships with advocates.

Parent/child relationships are more supportive because they are usually more emotionally supportive than relationships with professionals (advocates).

Table 7 presents the percentage distribution of support people by type of court.

**TABLE 7**  
**PERCENTAGE DISTRIBUTION OF SUPPORT PEOPLE BY COURT**

TYPE OF COURT	support person present	IDENTITY OF SUPPORT PERSONS <sup>1</sup>				
		parent	guardian	advocate	parent & ad.	other
F.V.C. N = 79	83.5% (79)	23.9% (16)	4.5% (3)	25.4% (17)	38.8% (26)	7.5% (5)
Q.B. N = 27	77.8% (27)	25.0% (5)	10.0% (2)	40.0% (8)	10.0% (2)	15.0% (3)

1. There were 12 missing values for F.V.C. and 7 for Q.B..

Table 7 indicates that 83.5% of witnesses in F.V.C. had support people present during testimony, compared to 77.8% in Q.B.. This higher percentage of support people in F.V.C. is aligned with the hypothesis, though the difference was not statistically significant. Table 7 also indicates that when the identity of the support person is considered, a difference between the two courts exists. In F.V.C., the most common support people were 'Parent and Advocate' (38.8%), 'Advocate' (25.4%), and 'Parent' (23.9%). In contrast, Q.B. commonly had 'Advocate' (40%), 'Parent' (25.0%), and 'Other' (15%). That is, In F.V.C., parents and advocates were much more likely to

attend together, while in Q.B. advocates were much more likely to attend alone. But, parents were about equally likely to attend alone in both courts.

The type of support people can be divided into two types of support - personal support (parent or guardian) and professional support (advocate). For the most part, personal support would seem to be more advantageous to the child due to the emotional nature of the proceedings (Sas, 1991). People who are close to the child witnesses, those usually being family members and friends, may offer more support because of the relationships they have with them. Advocates, though they are trained to offer emotional support, do not have a close relationship with the children. Unfortunately, family member support is not always available, in some cases the accused is also a family member and others have sided with the accused. While observing the case proceeding, research assistants distinguished if the family member was there to support the child or the accused. In cases where the family supports the accused, the importance and relevance of professional support for the child witnesses is essential and should not be underestimated.

F.V.C has a higher rate of support people who are close to the children, whereas Q.B. has more professional support. Interestingly, the most frequent support people in F.V.C. is the 'parent and advocate' group. This diversity can create an optimal support system, as the child has the opportunity for

both personal and professional support. All child witnesses should have the opportunity to have a strong support system. The court personnel should make it a priority to ensure that this happens. That is, if the child has no known support system (e.g., family or friends) other relevant adults should be encouraged to attend court (e.g., social worker or support worker). It appears this is a greater priority in F.V.C. than in Q.B..

It is due to the vulnerability of children that support people are so important in court cases that involve child witnesses. This is especially true for young children. An analysis was done on the presence of support people according to the ages of the child witnesses. Table 8 presents the data for this analysis.

**TABLE 8**  
**PERCENTAGE DISTRIBUTION OF SUPPORT PEOPLE IN**  
**F.V.C. & Q.B. BY AGE OF WITNESS**

AGE OF WITNESS	SUPPORT PERSONS PRESENT (%)			
	F.V.C. N = 79		Q.B. N = 27	
	YES N=66	NO N=13	YES N=21	NO N=6
7-15 YEARS <sup>1</sup>	86.7%	13.3%	83.3%	16.7%
16-17 YEARS <sup>2</sup>	73.7%	26.3%	66.7%	33.3%

1. 7-15 years: chi-square= .127      df= 1      p= .246  
 2. 16-17 years: chi-square= .147      df= 1      p= .258

This analysis indicates that both courts have support people present more often with younger children. In F.V.C., the 7-15 year old group had a support person present 65.8% of the time, while the 16-17 year old group 17.7%. In Q.B., the younger children had support people present 55.6% of the time, compared to the 16-17 year old group who had support 22.2% of the time. When controlling for age, there is little difference between the younger children in F.V.C. and Q.B. The younger children in F.V.C. have support people 87% of the time, compared to 83% of Q.B. children. However, the difference remains when comparing the older children in F.V.C. and Q.B.. The older children in F.V.C. had support people 74% of the time, compared to 67% in Q.B.. Fisher's Exact test was used due to the small cell sizes. No significant difference between groups were found. However, the percentages do indicate that younger children have support people present more often, particularly in F.V.C.

The data analyses thus far indicates that the environments of F.V.C. and Q.B. are distinctly different. Evidence suggests that F.V.C. has a more child-sensitive environment than Q.B.. F.V.C. courtrooms are designed so that the child witnesses do not have to face the accused during testimony, but in Q.B. they do. Despite the obvious need to use procedures to shield the victims from the accused in Q.B., such procedures are rarely used. Although F.V.C. and Q.B. proceedings are very different in terms of where the accused

and the child witnesses are seated during testimony, this can easily be changed (e.g., move the accused or the child or hold Q.B trials in F.V.C courtrooms). The fact that the settings in which Q.B. trials are held are not changed is significant, as the children's needs are clearly not being met.

Furthermore, F.V.C. was more sensitive in terms of the number and type of people present in court during the children's testimony. In F.V.C., the people present in court tended to be people who could offer personal support to the child witnesses, whereas in Q.B. they tended to be people who could offer professional support. Although professionals are trained to offer emotional support, often people close to the children can provide more personal emotional support. The four hypotheses made concerning the environments of the two courts were supported by the data analysis. Of these, only one of the relationships were statistically significant.

### Time

The F.V.C and Q.B. child sexual abuse cases that were monitored will be compared according to two criteria that constitute the index 'time'. The first criteria, court time, refers to the length of time the witness was required to testify. This is 3-fold: (1) total time testifying, (2) time with the Crown and (3) time with the defense.



Testifying in court can be a stressful and potentially threatening experience for children (Goodman and Bottoms, 1993). These reactions can be magnified when the examinations by the lawyers are long. When children react to stress and fear, the quality of their evidence can be jeopardized due to their decreased attention span and overwhelming feelings. Goodman et al (1992) found that the longer and more often children were required to testify, the more stressed they were.

The second criteria for the index time, case time, refers to how long the case was in the criminal justice system. This calculation was made by determining the date of the accused's first appearance and final case disposition. Case time is another significant potential stressor for child witnesses. Goodman et al (1992) found that the longer a case was in the criminal justice system, the more emotional disturbance it caused for the child involved. Children whose cases go to Q.B. will likely have a longer experience in the court system because their cases require a preliminary hearing first. This process can add considerable time to the case's progression through the criminal justice system (Ursel, 1993).

Furthermore, case time can affect the quality of the evidence child witnesses give. As a case progresses through the system, the child witness continues to learn and develop his or her own skills as a witness. Their ability to describe events and communicate in the court system improves. This can

introduce variation in testimony or make testimony seem rehearsed, which can in turn make the child witness appear to not be a credible witness (Perry and Wrightsman, 1991).

Adult witnesses will be included in this analysis. Therefore, there will be 125 subjects included in the analysis. If the output indicates that there are less than 125 subjects included in the analysis, it is due to missing data. Though children do interact with the judge, as well as the Crown and defense, judges will not be included in the analysis. This is because the judges main interaction with the child witness tends to be to administer the oath and to tell the child to speak up (Goodman et al., 1992).

#### Hypothesis #5

5a) WITNESSES IN F.V.C. CASES WILL BE REQUIRED TO TESTIFY FOR SHORTER PERIODS OF TIME THAN WITNESSES IN Q.B. CASES.

5b) DEFENSE LAWYERS WILL EXAMINE WITNESSES FOR LONGER PERIODS OF TIME THAN CROWN ATTORNEYS.

5c) YOUNGER CHILDREN WILL BE REQUIRED TO TESTIFY FOR SHORTER PERIODS OF TIME THAN THE OLDER WITNESSES.

The first step in this analysis examined the differences in the time child witnesses testified in F.V.C. and Q.B.. Table 9 presents the results of the series of t-tests for this analysis.

TABLE 9

CONTRAST IN MEAN RATINGS OF TIME TESTIFYING & TYPE OF COURT

TYPE OF COURT	TIME TESTIFYING (minutes)		
	total time <sup>1</sup>	Crown <sup>2</sup>	defense <sup>3</sup>
F.V.C. (n=88)	62.4	29.0	37.4
Q.B. (n=36)	85.0	39.1	47.2

1. total time: t= -1.86 df= 43.65 p= .035  
 2. Crown: t= -1.91 df= 48.77 p= .031  
 3. defense: t= -1.11 df= 45.36 p= .136

The total length of time children testified differed from F.V.C. to Q.B.. In F.V.C., children testified for an average of 62.4 minutes, while children in Q.B. for 85.0 minutes. This time difference is quite large. A t-test determined a significant relationship between type of court and total length of time testifying. The difference in averages reveals that child witnesses will testify for shorter periods of time in F.V.C..

Analysis was also done for the time children testified for the Crown and defense separately. These data are included in Table 9, as well. Child witnesses must testify for as long as it is required for the lawyers to elicit necessary evidence. Often, the time it takes a Crown attorney versus a defense lawyer to examine the same child witness varies considerably. A t-test determined a significant relationship

between the length of time a F.V.C. Crown (29.0) had a child testify and a Q.B. Crown (39.1). The time defense lawyers had children testify for in F.V.C. (37.4) and Q.B. (47.2) differed considerably, as well, though no significant relationship was found. Although there was nearly the same difference in minutes between time testifying with Crown and defense, there were very different probability (p) values obtained. This variation can be explained by the differences in the standard deviations, which was much lower for the analysis with the Crown attorneys. In general, the averages indicate that Crown attorneys examine the child witnesses for shorter periods of time, especially in F.V.C.. The defense attorneys, most notably Q.B. defense, have children testify for longer periods of time. These findings further support the hypothesis made.

However, when controlling for the personnel in each respective court separately, there was a very strong significant relationship found between the time Crown and defense had children testify in F.V.C.. Table 10 presents the data for this analysis.

TABLE 10

CONTRAST IN MEAN RATINGS OF TIME TESTIFYING  
AND COURT PERSONNEL WITHIN THE COURTS

TYPE OF COURT	COURT PERSONNEL	
	CROWN	DEFENSE
F.V.C. (n=85) <sup>1</sup>	29.0	37.4
Q.B. (n=35)	39.1	47.2

1. FVC Crown & defense:  $t = -2.60$   $df = 84$   $p = .005$

The Crown in F.V.C., on average, had children testify for 29.0 minutes, while the defense for 37.4 minutes. In contrast, in Q.B., there was no significant differences between lawyer and time testifying. Q.B. Crown attorneys had children testify for 39.1 minutes while Q.B. defense for 47.2 minutes. While the differences are close (approximately 8 minute differences between Crown and defense in both courts), the difference is significant in F.V.C and not in Q.B. because of the variation in cell sizes. These findings also support hypothesis #5.

Further analysis was made on the relationship between time testifying and the witnesses's age. Hypothesis 5c stated that younger children would testify for shorter periods of time than older children. This data is presented in Table 11.

TABLE 11

CONTRAST IN MEAN RATINGS OF TIME TESTIFYING  
AND TYPE OF COURT AND AGE OF WITNESS

TYPE OF COURT	AGE OF WITNESS		
	7-15 YEARS <sup>1</sup> N = 77	16-17 YEARS <sup>2</sup> N = 28	18-31 YEARS <sup>3</sup> N = 19
F.V.C.	55.5	73.5	81.8
Q.B.	76.0	69.0	118.9

1. 7-15 years: t= -1.78 df= 20.5 p= .046
2. 16-17 yrs.: t= .29 df= 26.0 p= .39
3. 18-31 yrs.: t= -.90 df= 9.72 p= .194

When considering the three age groups in F.V.C. and Q.B., there was a significant difference found. This was for the youngest children in F.V.C. (55.5 minutes) and Q.B. (76.0 minutes). The mean values indicate that the youngest children do testify for the least amount of time in F.V.C.. In Q.B., however, the average times indicate a different order according to time testifying. The 16-17 year old group testified the least (69.0 minutes), followed by the 7-15 year old group (76.0 minutes) and the 18-31 year old group (118.9 minutes). A 2-way analysis of variance (length of time testifying by type of court and age of witness) found main effects by court and age, but no interaction effects. In general, the numbers calculated support hypothesis 5c that younger child witnesses will have to testify for shorter

periods of time than the older child witnesses. Based on this variable, F.V.C. was the most consistent and sensitive to the needs of children according to their age.

Hypothesis #6

F.V.C. CASES WILL BE PROCESSED MORE QUICKLY THAN Q.B. CASES.

The data for this hypothesis was calculated by hand by the writer, as the two variables required for the calculation were on two different schedules (the child observation schedule and the monitoring schedule). It is argued that cases that take a long time to process through the court system put more stressors on the child (Goodman et al., 1992). It was hypothesized that the F.V.C. will put less pressure on the child by processing cases more quickly than Q.B. Table 12 identifies the processing time for F.V.C. cases and Q.B. cases. The processing time is the length of time from when the accused first appears in court to the date of final case disposition.

TABLE 12

AVERAGE LENGTH OF TIME IN THE SYSTEM (IN MONTHS) BY COURT

TIME (months)	PRELIM N=61	FVC TRIAL N=17	QB TRIAL N=35
	4.6	4.8	10.15
missing info.	9	1	2

The average length of time in the system for preliminary hearings (4.6 months) and F.V.C. trials (4.8 months) are quite similar. As expected, the Q.B. trials took much longer to process (10.15 months). The Q.B. cases take approximately 2 times longer than F.V.C. cases. Ursel (1993) reported that child abuse cases that go to Q.B. take 2 to 3 times as long to process. This is expected because Q.B. trials require a preliminary hearing first and then a trial. These numbers indicate strong support for the hypothesis.

The data supported the two hypotheses which stated that children testify for longer periods of time in Q.B. and Q.B. cases take a longer time to process. This reveals further evidence that F.V.C. can be a more sensitive court than Q.B.. F.V.C. personnel require children, especially younger ones, to testify for shorter periods of time than Q.B. personnel. This lessens the burden of lengthy examination and interrogation commonly put on children by defense lawyers and Q.B.



personnel. Furthermore, children in F.V.C. are also usually spared the stressors associated with a lengthy court case. According to the requirements of law, Q.B. cases must first have preliminary hearings. This adds months to court cases, which in turn increases the pressure put on child witnesses. In Q.B., child witnesses, who are already dealing with the stress of their sexual abuse, must also endure lengthy testimony and court involvement.<sup>5</sup>

#### Court Personnel's Behaviour

The behaviour of court personnel is very important to consider because it directly affects the child witnesses court experience. Court personnel are often seen as intimidating people by children (Sas, 1991). Therefore, court personnel's behaviour must be analyzed in order to evaluate the type of interaction that occurs between child witnesses and personnel. Court personnel behaviour will be assessed according to 3 areas; (1) the use of props to facilitate testimony, (2) the use of age-appropriate language, and (3) the degree of supportiveness shown towards the child witnesses. These 3 behaviours will be used to determine if court personnel are behaving in an age-appropriate and supportive manner. The

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<sup>5</sup>An important factor to point out is that the time delay due to the requirement of a preliminary hearing is not the responsibility of Q.B.. It is a legal requirement outlined in the Canadian Criminal Code that affects children who must proceed through Q.B..

adult subjects were not included in this analysis because the variables are not applicable to them. Therefore, there will be 106 subjects used, and less if there are missing data.

Hypothesis #7

PROPS (DOLLS AND DIAGRAMS) WILL BE USED MORE OFTEN BY F.V.C. PERSONNEL THAN Q.B. PERSONNEL.

It is often difficult for child witnesses to give concise and detailed testimony. This can be due to factors such as their emotional state, memory, or age. There are methods that can facilitate in the retrieval of evidence from children. One of these methods is the use of props, which includes anatomically correct dolls and diagrams. When used properly, these props enable child witnesses to describe their evidence in more detail and much clearer.

Considering the accessibility and usefulness of props, one would expect them to be used frequently. The frequency of the use of props in F.V.C. and Q.B. is presented in Table 13.

TABLE 13

PERCENTAGE DISTRIBUTION OF THE USE OF PROPS BY TYPE OF COURT

TYPE OF COURT	USE OF PROPS			
	DOLLS		DIAGRAMS	
	YES	NO	YES	NO
F.V.C. N = 79	5.1% (4)	94.9% (75)	3.8% (3)	96.2% (76)
Q.B. N = 27	0% (0)	100% (27)	0% (0)	100% (27)

Of the 106 cases included in this analysis, props were used only 7 times. In fact, they were only used in F.V.C. cases. The 7 times props were used in F.V.C., 6 of the times were with child witnesses from the 7 to 15 year old age group while only one time was with the older age group. A Fisher's exact test was used due to the small cell sizes. No significant differences were found between the groups. Further inquiry using frequencies revealed that diagrams were used in 3 cases, while dolls were used in 4. While no conclusions can be drawn from this, the observation that F.V.C. personnel appear to be more likely to use props than Q.B. personnel can be made.

This finding is a critical reflection of the behaviour of all court personnel, particularly Q.B. personnel. The proper use of props, which avoids leading questions and suggestibility, can dramatically help children express themselves to the adults asking the questions. At the same time, the rights of the accused would not be threatened. To

discover that props are used so infrequently, especially when they are easily accessible and beneficial to a case, offers support to the claim that courts are not sensitive to the special needs of child witnesses. This is particularly true of Q.B..

While the use of props can facilitate testimony, court personnel must also be aware of the language they use while communicating with the child witnesses. They must use language that the children understand. This makes it possible for court personnel to elicit the information that they are seeking. The issue of the use of age-appropriate language in court rooms remains a highly researched topic (Goodman & Bottoms, 1993).

#### Hypothesis #8

F.V.C. PERSONNEL AND Q.B. CROWN ATTORNEYS WILL USE MORE AGE-APPROPRIATE LANGUAGE, PARTICULARLY WITH YOUNGER CHILDREN.

The use of age-appropriate language is very important in a court proceeding involving children. It determines if the child witness will understand the questions being directed at him/her. Court personnel must be aware that there are developmental differences in the language ability and cognition of children depending upon age (Batterman-Faunce and Goodman, 1993). For instance, a child in the pre-operational

stage (2-7 years of age) would not be able to reason and seriate, though a child in the formal operational stage (11-15 years of age) would be able to do this.

For the purposes of this study, the degree of age-appropriate language used by the judge, Crown and defense lawyer was measured on a 5-point scale, with 1 representing 'no age-appropriate language', 2 'some', 3 'half', 4 'many', and 5 'all'. The actual scores for the use of age-appropriate language were much higher than expected. As expected, there were differences between court personnel in their use of age-appropriate language. On average, without controlling for type of court, Crown attorneys used age-appropriate language most often (4.3), judges slightly less often (4.1) and defense lawyers the least often (3.7).

When controlling for court personnel and type of court, the differences between personnel decreased. Table 14 presents language scores by type of court and type of personnel.

TABLE 14

CONTRAST IN MEAN RATINGS OF USE OF AGE-APPROPRIATE  
LANGUAGE AND COURT PERSONNEL

TYPE OF COURT	COURT PERSONNEL		
	JUDGE <sup>1</sup>	CROWN <sup>2</sup>	DEFENSE <sup>3</sup>
F.V.C. (n=79)	3.9	4.3	3.5
Q.B. (n=26)	4.2	4.3	3.8

1. FVC j. & QB j.: t= -1.81 df= 50.55 p= .038
2. FVC C. & QB C.: t= .20 df= 103 p= .420
3. FVC d. & QB d.: t= -1.29 df= 99 p= .101

For judges, there was a significant relationship between court and use of language when a t-test was done. Judges in Q.B. used more age-appropriate language (4.2) than F.V.C. judges (3.9). This was not the expected result, as the writer hypothesized that F.V.C. judges would use more age-appropriate language. This was expected because F.V.C. judges are specially selected for sensitivity in family violence cases (Ursel, 1993). In terms of an explanation for this finding, perhaps by virtue of their experience, Q.B. judges are more aware of the use of age-appropriate language. F.V.C. judges, with their continued involvement and specialization, may become as appropriate in their use of language. Both F.V.C. and Q.B. judges rated high on the scale measuring use of age-appropriate language. Crown attorneys in both courts showed little difference in their use of language. Crown attorneys

consistently used age-appropriate language in F.V.C. (4.3) and Q.B. (4.3). Similarly, defense lawyers consistently used 'half to many' instances of age-appropriate language in F.V.C. (3.5) and Q.B. (3.8).

In order to analyze this variable in more detail, an analysis was done on how the two lawyers in each court compared to each other. That is, do the Crown attorneys and defense in a F.V.C. or Q.B. proceedings differ in terms of their use of age-appropriate language? As Table 15 indicates, significant relationships were found in both of these cases.

**TABLE 15**  
**CONTRAST IN MEAN RATINGS OF USE OF AGE-APPROPRIATE**  
**LANGUAGE AND TYPE OF COURT**

COURT PERSONNEL	TYPE OF COURT	
	F.V.C. <sup>1</sup> N = 79	Q.B. <sup>2</sup> N = 26
CROWN	4.3	4.2
DEFENSE	3.5	3.8

1. FVC Crown & defense:  $t=7.37$   $df=74$   $p=.000$   
 2. QB Crown & defense:  $t=3.36$   $df=24$   $p=.002$

These significant relationships show that during a court proceeding, Crown attorneys use more age-appropriate language than the defense lawyer. Specifically, in F.V.C., the Crown scored in the 'many' category for their use of age-appropriate

language (4.3) while defense scored in the 'half' category (3.5). Similarly, in Q.B., the Crown scored in the 'many' category for their use of age-appropriate language (4.2) while the defense scored in the 'half' category (3.8).

The data above shows that Crown attorneys use the most age-appropriate language, followed by judges and then defense lawyers. This is true when controlling for type of court and also when not. An interesting factor to further include when analyzing this variable is the age of the child witnesses. Age is an important factor to consider when addressing the use of age-appropriate language because children understand language according to their age. Therefore, a series of t-tests were done using the age of the child witnesses. The two age groups used were 7-15 years of age and 16-17 years of age.

This analysis was done controlling for type of court. Table 16 presents the data for F.V.C. personnel's use of language with the different age groups.



TABLE 16

CONTRAST IN MEAN RATINGS OF F.V.C. PERSONNEL'S  
USE OF AGE-APPROPRIATE LANGUAGE & AGE OF WITNESS

AGE OF CHILD WITNESS	COURT PERSONNEL IN FVC (N=79)		
	JUDGE <sup>1</sup>	CROWN <sup>2</sup>	DEFENSE <sup>3</sup>
7-15 YEARS	3.8	4.3	3.5
16-17 YEARS	4.2	4.4	3.5

1. FVC judge:                   t= -1.30   df= 62   p= .099  
 2. FVC Crown:                 t= -.74    df= 77    p= .231  
 3. FVC defense:               t= .17     df= 73    p= .433

There were no significant relationships found, as F.V.C. personnel (judge, Crown and defense) tended to treat children of all ages relatively the same. What is important to note is that F.V.C. Crown attorneys again rated higher than judges and defense lawyers in their use of age-appropriate language.

Slightly different results were obtained when Q.B. personnel were assessed according to their use of age-appropriate language with the age groups. Table 17 presents the data for this analysis.

TABLE 17

CONTRAST IN MEAN RATINGS OF Q.B. COURT PERSONNEL'S  
USE OF AGE-APPROPRIATE LANGUAGE & AGE OF WITNESS

AGE OF CHILD WITNESS	COURT PERSONNEL IN QB (N=26)		
	JUDGE <sup>1</sup>	CROWN <sup>2</sup>	DEFENSE <sup>3</sup>
7-15 YEARS	4.3	4.5	3.9
16-17 YEARS	4.2	3.9	3.6

1. QB judge: t= .37 df= 18 p= .357
2. QB Crown: t= 2.59 df= 24 p= .008
3. QB defense: t= 1.05 df= 24 p= .153

In Q.B., judges scored in the 'many' category for their use of age-appropriate language with both the 7-15 years old group (4.3) and the 16-17 year old group (4.2). Furthermore, a significant relationship was found between the use of language by Crown's with the 7-15 year old group (4.5) and the 16-17 year old group (3.9). The language the Q.B. Crown used with the younger children is about the same the Crown used with all children in F.V.C.. The defense in Q.B. were similar to the defense in F.V.C.. They scored in the 'half' to 'many' category for their use of age-appropriate language with the younger group (3.9) and the older group (3.6).

A final analysis was done on the use of age-appropriate language comparing the two types of court for children of the same age group. The last analysis was a comparison within each court (F.V.C. and Q.B.) whereas this is between courts.

The use of age-appropriate language by court personnel with the 7-15 year old witnesses was analyzed first. The data for this comparison are in Table 18.

**TABLE 18**  
**CONTRAST IN MEAN RATINGS OF THE USE OF AGE-APPROPRIATE**  
**LANGUAGE BY COURT PERSONNEL IN F.V.C. & Q.B.**  
**WITH 7-15 YEAR OLD CHILDREN**

TYPE OF COURT	COURT PERSONNEL		
	JUDGE <sup>1</sup>	CROWN <sup>2</sup>	DEFENSE <sup>3</sup>
F.V.C. N = 79	3.8	4.3	3.5
Q.B. N = 26	4.3	4.5	3.9

- |             |          |        |         |
|-------------|----------|--------|---------|
| 1. Judge:   | t= -1.53 | df= 61 | p= .065 |
| 2. Crown:   | t= -.95  | df= 75 | p= .173 |
| 3. Defense: | t= -1.49 | df= 72 | p= .071 |

As Table 18 indicates, no significant relationships were found. The Q.B personnel used slightly more age-appropriate language than F.V.C. personnel with 7-15 year old children, but this was not statistically significant.

The analysis of the older child witnesses did result in a significant relationship being found. The data for the contrast in mean ratings of the use of age-appropriate language by court personnel in F.V.C. and Q.B. with 16-17 year old children is presented in Table 19.

TABLE 19

CONTRAST IN MEAN RATINGS OF NUMBER OF PEOPLE IN THE  
COURTROOM AND COURT TYPE OR AGE OF WITNESS

TYPE OF COURT	COURT PERSONNEL		
	JUDGE <sup>1</sup>	CROWN <sup>2</sup>	DEFENSE <sup>3</sup>
F.V.C. N = 79	4.2	4.4	3.5
Q.B. N = 26	4.2	3.9	3.6

1. Judge:	t= .11	df= 19	p= .456
2. Crown:	t= 2.75	df= 25.95	p= .006
3. Defense:	t= -.16	df= 25	p= .438

Judges in F.V.C. and Q.B. rated the same in their use of age-appropriate language, as did the defense lawyers. The Crown attorneys, however, differed significantly. F.V.C. Crowns used significantly more age-appropriate language with 16-17 year old witnesses (4.4) than did Q.B. Crowns (3.9). A 2-way analysis of variance (language of personnel by type of court and age of witness) found no main effects with the judge, Crown or defense. But, interaction effects were found with the Crown attorney, such that F.V.C. used more age-appropriate language with the older children, and Q.B. used more with younger children.

The results of the analysis on the use of age-appropriate language were not as expected. The writer hypothesized that F.V.C. personnel and Q.B. Crown attorneys would use more age-appropriate language, particularly with younger children. Instead, court personnel were found to have similar rates.

The important trend to note is that Crown attorneys, particularly F.V.C. Crowns, used the most age-appropriate language, followed by judges and defense lawyers. A factor that must be taken into consideration with this variable is observer bias. Research assistants subjectively assessed whether or not age-appropriate language was used by court personnel. Although the research assistants were trained in a similar way, there still existed the potential for their personal experience and beliefs to affect their judgement.

Despite the lack of support for the stated hypothesis, the findings are nevertheless encouraging. It is refreshing to find that virtually all court personnel rated high on the scale of the use of age-appropriate language. Beyond the use of language, court personnel must also present themselves as supportive in order for child witnesses to feel comfortable testifying. Supportiveness is the final court personnel behaviour to be discussed.

#### Hypothesis #9

F.V.C. PERSONNEL WILL EXHIBIT MORE SUPPORTIVE BEHAVIOUR TOWARDS CHILD WITNESSES, PARTICULARLY THE YOUNGER ONES.

The supportiveness of the court personnel is significant to children's testimony, as children will speak more fully to people with whom they feel safe (Batterman-Faunce and Goodman,

1993). Therefore, if court personnel aim to elicit detailed testimony from the child witnesses, they must make an effort to provide a supportive environment. Supportive behaviour refers to the manner in which the court personnel interact with the children. Those who are aggressive, impatient and insensitive are not supportive, while those who non-threatening, patient and sensitive are supportive. Similar to the use of props and age-appropriate language, supportive behaviour is an example of positive behaviour by court personnel.

The supportiveness of the court personnel was measured according to a 5-point scale, with 1 representing 'not supportive at all', 2 'a little', 3 'neutral', 4 'some', and 5 'very supportive'. There were different analyses done on the supportiveness of court personnel (by court type and age) to specifically determine if any significant relationships exist. The amount of supportiveness court personnel display towards children who are testifying differ from court to court and also between court personnel themselves.

In order to examine the differences between courts, the type of court was controlled for. Significant relationships were found based on this analysis. Table 20 presents this data.

TABLE 20

CONTRAST IN MEAN RATINGS OF COURT PERSONNEL'S  
SUPPORTIVENESS & TYPE OF PERSONNEL

TYPE OF COURT	COURT PERSONNEL		
	JUDGE <sup>1</sup>	CROWN <sup>2</sup>	DEFENSE <sup>3</sup>
F.V.C. (n=79)	4.1	4.5	2.8
Q.B. (n=26)	3.6	4.1	2.2

1. FVC & QB judge: t= 2.35      df= 97      p= .011
2. FVC & QB Crown: t= 2.49      df= 33.22      p= .009
3. FVC & QB defense:t= 2.47      df=96      p= .008

The judges in F.V.C. were much more supportive (4.1) than Q.B. judges (3.6). The Crown in F.V.C. were more supportive (4.5) than the Crown in Q.B. (4.1). As well, the defense in F.V.C. were more supportive (2.8) than the Q.B. defense (2.2). T-tests confirmed significant relationships between all three of these comparisons. As evident by the mean values cited above, Crown attorneys, particularly in F.V.C., are the most supportive of all court personnel. Judges are the next most supportive, followed by defense lawyers. These findings confirm the hypothesis that F.V.C. personnel will be more supportive.

To look at this variable in more depth and to see if this trend is consistent, analysis was done on how Crowns and defense lawyers behaved in the same court. Table 21 presents the findings for this comparison.

**TABLE 21**  
**CONTRAST IN MEAN RATINGS OF COURT PERSONNEL'S**  
**SUPPORTIVENESS AND TYPE OF COURT**

COURT PERSONNEL	TYPE OF COURT	
	F.V.C. <sup>1</sup> N = 79	Q.B. <sup>2</sup> N = 26
CROWN	4.5	4.1
DEFENSE	2.8	2.2

1. FVC Crown & defense:  $t = 13.83$   $df = 71$   $p = .000$   
2. QB Crown & QB defense:  $t = 8.6$   $df = 24$   $p = .000$

Paired-sample t-tests were made between Crown attorneys and defense lawyers only, as they were the court personnel who interacted with the child witnesses the most. Judges tended to interact with the children mainly to administer the oath and to ask them to speak up (Goodman et al., 1993). These findings were consistent with the earlier analysis. In F.V.C., the Crown was very supportive (4.5) while the defense was not very supportive (2.8). There was a significant relationship between these variables. There was also a significant relationship found in the Q.B. comparison. Q.B. Crown were quite supportive (4.1) while the defense were not (2.2). The above data is what was expected. The Crown attorneys, perhaps by virtue of their role as advocates for the children, were much more supportive.



The next step in the analysis was to see if the age of the child witnesses contributed to how supportive court personnel were. Age can be significant factor, as younger children tend to be treated better due to their age and perceived vulnerability. Table 22 includes the data for the analysis made on the different age groups in F.V.C..

**TABLE 22**  
**CONTRAST IN MEAN RATINGS OF F.V.C. PERSONNEL'S**  
**SUPPORTIVENESS & AGE OF WITNESS**

AGE OF CHILD WITNESS	COURT PERSONNEL IN F.V.C. (N=79)		
	JUDGE <sup>1</sup>	CROWN <sup>2</sup>	DEFENSE <sup>3</sup>
7-15 YEARS	4.3	4.6	2.9
16-17 YEARS	3.6	4.4	2.2

- 1. FVC judge:      t= 2.34              df= 71              p= .011
- 2. FVC Crown:     t= 1.00              df= 77              p= .160
- 3. FVC defense:   t= 2.61              df= 70              p= .006

In F.V.C., a significant relationship exists between how supportive the judge is with the 7-15 year old group (4.3) and the 16-17 year old group (3.6). The Crown attorneys, on the other hand, were very supportive of both the 7-15 year old group (4.6) and the 16-17 year old group (4.4), resulting in no significant relationship being found. The defense attorneys showed little support towards children, though significantly more to the younger children (2.9) than the

older children (2.2). The F.V.C. Crown and judge were the most supportive, with the Crown being consistently supportive of children of all ages.

One significant relationship was found when analyzing the supportiveness of court personnel in Q.B. and the different age groups. The presentation of the data in Table 23 indicates this.

**TABLE 23**  
**CONTRAST IN MEAN RATINGS OF Q.B. COURT PERSONNEL'S**  
**SUPPORTIVENESS & AGE OF WITNESS**

AGE OF CHILD WITNESS	COURT PERSONNEL IN Q.B. (N=26)		
	JUDGE <sup>1</sup>	CROWN <sup>2</sup>	DEFENSE <sup>2</sup>
7-15 YEARS	3.6	4.3	2.3
16-17 YEARS	3.3	3.7	2.0

- |                |         |        |         |
|----------------|---------|--------|---------|
| 1. QB judge:   | t= .73  | df= 24 | p= .236 |
| 2. QB Crown:   | t= 1.78 | df= 24 | p= .044 |
| 3. QB defense: | t= .83  | df= 24 | p= .206 |

In Q.B., the judges were moderately supportive of both the 7-15 year old group (3.6) and the 16-17 year old group (3.3) and no significant relationships were found. The judges in F.V.C. (as shown above) were much more supportive than the Q.B. judges, especially with the younger children. Similarly, the Crowns in Q.B. were moderately supportive of both the 7-15 year old group (4.3) and the 16-17 year old group (3.7). A

statistically significant relationship was found between how supportive Crowns were with the 7-15 year old group and the 16-17 year old group. Again, the Crown attorneys in F.V.C. were much more supportive. The defense in Q.B. were much the same as the defense in F.V.C.. No significant relationship was found for the analysis of defense lawyers in Q.B..

A final analysis was done on supportiveness by comparing the two types of court for children of the same age group. The supportiveness of court personnel in F.V.C. and Q.B. with 7-15 year old children was analyzed first. The data for the analysis are in Table 24.

**TABLE 24**  
**CONTRAST IN MEAN RATINGS OF THE SUPPORTIVENESS OF**  
**COURT PERSONNEL IN F.V.C. & Q.B.**  
**WITH 7-15 YEAR OLD CHILDREN**

TYPE OF COURT	COURT PERSONNEL		
	JUDGE <sup>1</sup>	CROWN <sup>2</sup>	DEFENSE <sup>3</sup>
F.V.C. N = 79	4.3	4.6	2.9
Q.B. N = 26	3.6	4.3	2.3

1. Judge: t= 2.25 df= 70 p= .014  
 2. Crown: t= 1.33 df= 20.12 p= .10  
 3. Defense: t= 2.21 df= 69 p= .02

These data are consistent with the previous results. F.V.C. judges were significantly more supportive with the young children (4.3) than Q.B. judges (3.6). As well, the defense

in F.V.C. were significantly more supportive (2.9) than Q.B. defense (2.3). F.V.C. Crowns were also more supportive (4.6) than Q.B. Crowns (4.3) but the relationship was not statistically significant.

The results of the analysis for the older children were similar to the results of the analysis for the younger children. Table 25 presents the results of the analysis for the supportiveness of court personnel in F.V.C. and Q.B. with 16-17 year old children.

**TABLE 25**  
**CONTRAST IN MEAN RATINGS OF THE SUPPORTIVENESS OF**  
**COURT PERSONNEL IN F.V.C. & Q.B.**  
**WITH 16-17 YEAR OLD CHILDREN**

TYPE OF COURT	COURT PERSONNEL		
	JUDGE <sup>1</sup>	CROWN <sup>2</sup>	DEFENSE <sup>3</sup>
F.V.C. N = 79	3.6	4.4	2.2
Q.B. N = 26	3.3	3.7	2.0

1. Judge: t= .60 df= 25 p= .278  
 2. Crown: t= 2.33 df= 26 p= .014  
 3. Defense: t= .75 df= 25 p= .230

F.V.C. judges were more supportive of older children (3.6) than Q.B. judges (3.3). Similarly, F.V.C. defense were slightly more supportive (2.2) than Q.B. defense (2.0). However, neither of these relationships were statistically significant. A significant relationship was found for the

Crown attorneys. F.V.C. Crown were significantly more supportive of older child witnesses (4.4) than were Q.B. Crown (3.7). As found in the other analysis, F.V.C. Crown attorneys were the most supportive of all court personnel. A 2-way analysis of variance (supportiveness of court personnel by type of court and age of witness) found main effects for both court and age, but no interaction effects.

The results of the analysis of court personnel's supportiveness by age of the child witnesses were what was expected. F.V.C. personnel and Q.B. Crown attorneys exhibited more supportive behaviour towards child witnesses, particularly the younger ones. This was true for both the within court comparison and the between court comparison. These data are strong support for the assertion that F.V.C. is a much more child-sensitive court than Q.B.. An important point to make is that court personnel's supportiveness was subjectively assessed by research assistants. The subjective nature of the supportiveness scale created the potential for observer bias to occur. Although all of the research assistants who collected the data were trained in a similar way, there still existed the potential for personal values and opinions to affect the data collection. This must be acknowledged along with the findings.

When assessing the sensitivity of courts to the special needs of children, the issue of court personnel's behaviour must be acknowledged. As children become increasingly

accepted as credible witnesses, court personnel must be sensitive to children's cognitive and affective states as they provide testimony. Insensitive treatment of child witnesses by court personnel, such as unrealistic cognitive expectations, use of age-inappropriate language and unsupportive behaviour, can contribute to confusion and stress for the children (Yuille et al., 1993). In order for child witnesses to testify to the best of their ability, court personnel must understand the situational, emotional and developmental issues that can influence their testimony (Hurley et al., 1988). As well, an understanding of the behaviour of the child witnesses themselves must be made.

#### Child's Behaviour

Ultimately, one of the most revealing indicators in assessing how children are being treated is observing how the children behave during their court testimony. Even in environments that seem entirely unsupportive there are children who may react with strength and resiliency. Knowing how the child witnesses behave will help to explain how they are affected by the environment, time and the court personnel.

The additional screening process that cases in Q.B. undergo permits the Crown Attorney to select for more

confident witnesses. Therefore, it would be reasonable to assume that child witnesses in Q.B. would be more confident and exhibit lower anxiety levels. However, the hypothesis below is based on the assumption that court specialization (in F.V.C.) not only moderates this effect, but actually reverses it.

Hypothesis #10

10a) CHILD WITNESSES, ESPECIALLY YOUNGER CHILDREN, WILL HAVE A HIGHER LEVEL OF ANXIETY IN Q.B. THAN THEY DO IN F.V.C..

10b) IN GENERAL, CHILDREN WILL BE MORE ANXIOUS WITH DEFENSE LAWYERS THAN WITH CROWN ATTORNEYS.

Children were rated according to 9 behaviours. They are, if the child; covers his/her face, fidgets, bites his/her fingernails, is shy/timid, is easily embarrassed or is self-confident. These behaviours will be used as indicators of the children's anxiety levels. These 9 behaviours were recoded into an anxiety scale. It is a 4-point scale with 1 representing 'no anxiety', 2 'a little', 2 'moderate' and 4 'a lot'. In order to ensure the reliability of this scale, reliability tests were run on the computer. The tests determined that the anxiety scale for the children's behaviour with the judge ( $\alpha=.74$ ), Crown attorney ( $\alpha=.70$ ) and defense lawyer ( $\alpha=.73$ ) were reliable. The subjective nature of the anxiety scale must be acknowledged, as well.

Research assistants subjectively assessed the behaviour of the children. The research assistant's personal bias may have affected the data collection.

A series of t-tests were then done to determine the relationship between the anxiety level of child witnesses according to the type of court, the court personnel they were interacting with and the age of the witnesses. Again, adult witnesses were not included in the analysis. Therefore, 106 cases will be used, or less if there were missing values to consider.

First, Table 26 presents the data for the t-tests that measured the association between level of anxiety and specific court personnel.

**TABLE 26**  
**CONTRAST IN MEAN RATINGS OF CHILDREN'S ANXIETY LEVEL**  
**& COURT PERSONNEL IN BOTH COURTS**

TYPE OF COURT	COURT PERSONNEL		
	JUDGE <sup>1</sup>	CROWN <sup>2</sup>	DEFENSE <sup>3</sup>
F.V.C. (n=79)	.63	.76	.83
Q.B. (n=26)	.67	.83	.82

- |                      |         |         |         |
|----------------------|---------|---------|---------|
| 1. FVC & QB judge:   | t= -.41 | df= 93  | p= .342 |
| 2. FVC & QB Crown:   | t= -.80 | df= 103 | p= .214 |
| 3. FVC & QB defense: | t= .08  | df= 99  | p= .469 |



There were no significant relationships found for F.V.C. or Q.B. judges, Crown attorneys or defense lawyers. On average, children were not very anxious with F.V.C. judges (.63) or Q.B. judges (.67). They were slightly more anxious with F.V.C. Crown (.76) and Q.B. Crown (.83). Similarly, they were a little anxious with F.V.C. defense (.83) and Q.B. defense (.82).

The next series of t-tests were to determine if the age of the witness contributed to the level of anxiety. Age may be a factor in anxiety levels, as younger children, with their vulnerability and lack of experience, may become more anxious than the older children. Table 27 presents the data for the F.V.C. analysis.

**TABLE 27**  
**CONTRAST IN MEAN RATINGS OF THE CHILDREN'S ANXIETY**  
**LEVEL IN F.V.C. & AGE OF THE WITNESS**

AGE OF CHILD WITNESS	COURT PERSONNEL IN F.V.C. (N=79)		
	JUDGE <sup>1</sup>	CROWN <sup>2</sup>	DEFENSE <sup>3</sup>
7-15 YEARS	.65	.74	.80
16-17 YEARS	.57	.81	.91

1. FVC judge:	t= .62	df= 68	p= .267
2. FVC Crown:	t= -.62	df= 77	p= .268
3. FVC defense:	t= -.90	df= 73	p= .187

In F.V.C., the 7-15 (.65) and the 16-17 year old group (.57) were not very anxious when interacting with the judge. With the Crown, the 7-15 (.74) and 16-17 year old group (.81) continued to have little anxiety. However, with the defense attorney, the 7-15 year old group (.80) and the 16-17 year old group (.91) were a little more anxious.

The same trend was evident in Q.B.. Table 28 presents this data.

**TABLE 28**  
**CONTRAST IN MEAN RATINGS OF THE CHILDREN'S ANXIETY**  
**LEVEL IN Q.B. & AGE OF THE WITNESS**

AGE OF CHILD WITNESS	COURT PERSONNEL IN Q.B. (N=26)		
	JUDGE <sup>1</sup>	CROWN <sup>2</sup>	DEFENSE <sup>3</sup>
7-15 YEARS	.67	.86	.77
16-17 YEARS	.68	.79	.91

- |                |         |        |         |
|----------------|---------|--------|---------|
| 1. QB judge:   | t= -.09 | df= 23 | p= .467 |
| 2. QB Crown:   | t= .45  | df= 24 | p= .327 |
| 3. QB defense: | t= -.83 | df= 24 | p= .209 |

In Q.B., the 7-15 (.67) and the 16-17 year old group (.68) were not very anxious when interacting with the judge, much like in F.V.C.. Furthermore, Q.B. children from the 7-15 year old group (.86) were a little anxious with the Crown while the 16-17 year old group (.79) were a little less anxious. Lastly, the younger children in Q.B. were a little anxious

with the defense (.77) while the older children were a little more anxious (.91).

A final analysis was done on the contrast of mean ratings of children's anxiety level by court and type of personnel. The first comparison was for 7-15 year old child witnesses. The results of this comparison are presented in Table 29.

**TABLE 29**  
**CONTRAST IN MEAN RATINGS OF 7-15 YEAR OLD CHILDREN'S ANXIETY**  
**LEVEL BY TYPE OF COURT AND COURT PERSONNEL**

TYPE OF COURT	COURT PERSONNEL		
	JUDGE <sup>1</sup>	CROWN <sup>2</sup>	DEFENSE <sup>3</sup>
F.V.C. N = 79	.65	.74	.80
Q.B. N = 26	.67	.86	.77

1. Judge:	t= -.16	df= 70	p= .437
2. Crown:	t= -1.04	df= 75	p= .151
3. Defense:	t= .28	df= 72	p= .780

These findings are consistent with the other analyses. There were no significant relationships found between F.V.C. judges, Crown attorneys or defense lawyers and the anxiety levels of the younger witnesses. Similar results were found in the analysis of the older witnesses. Table 30 presents the results for the contrast in mean ratings of 16-17 year old children's anxiety level by type of court and personnel.

TABLE 30

CONTRAST IN MEAN RATINGS OF 16-17 YEAR OLD CHILDREN'S ANXIETY LEVEL BY TYPE OF COURT AND COURT PERSONNEL

TYPE OF COURT	COURT PERSONNEL		
	JUDGE <sup>1</sup>	CROWN <sup>2</sup>	DEFENSE <sup>3</sup>
F.V.C. N = 79	.57	.81	.91
Q.B. N = 26	.68	.79	.91

- 1. Judge: t= -.57 df=21 p= .289
- 2. Crown: t= .12 df= 26 p= .453
- 3. Defense: t= -.03 df= 25 p= .486

As was found above, there were no significant relationships in these comparisons. The older children had comparable anxiety levels when F.V.C. and Q.B. judges, Crown attorneys and defense lawyers were compared. A 2-way analysis of variance (anxiety of child witnesses by type of court and age of witness) found no main effects and no interaction effects.

The overall anxiety levels were much lower than expected. A general trend resulted, however, which was expected. That is, children exhibited more anxiety in Q.B., particularly the younger children. These differences are very slight, so no firm conclusions can be drawn. As stated earlier, it would be expected (all things being equal) that Q.B. witnesses would be less anxious due to the fact the cases are screened more than F.V.C. cases. But, the writer hypothesized that specialization would moderate, and ultimately reverse, this

effect. Indeed, specialization did moderate the expected differences in anxiety. However, the impact of specialization was not sufficient to reverse it such that F.V.C. witnesses would have been significantly less anxious.

In terms of the interaction with the judge, the low anxiety level seems easy to explain, as child witnesses generally did not interact very much with the judge. Therefore, they did not really get the opportunity to be anxious. The explanation for the low anxiety levels with the other two court personnel, particularly the defense lawyers, is more complicated. It is complicated because the data analysis of the other variables revealed considerable differences between F.V.C. and Q.B. environments and personnel. These findings are not consistent with the results of the anxiety scale analysis. That is, the initial analysis found that Q.B. in general and defense lawyers in particular were not very sensitive to children's needs. High anxiety levels were thus expected for the child witnesses who interacted with them, but were not found.

In an attempt to further examine the anxiety of the child witnesses, a different analysis was done. This analysis involved recoding the 9 behaviours that made up the anxiety scale such that only two responses were possible; those being 'yes' the behaviour occurred or 'no' the behaviour did not occur. The 9 behaviours included; covers face, fidgets, bites fingernails, picks at self, cries, withdrawn, shy/timid,

easily embarrassed and self-confident. This was done to determine the actual occurrence of each behaviour, rather than a scaled rating of each behaviour (as was done above).

This analysis did not reveal any significant differences, much like the analysis of the anxiety scale. There were some notable differences, however, that deserve recognition. There were notable differences found in the comparison of the actual occurrence of specific behaviours in the two courts. There were three behaviours that occurred considerably more often in Q.B. than F.V.C.. Child witnesses covered their faces much more in Q.B. (41%) than they did in F.V.C. (25%). Q.B. children were more withdrawn (86%) than F.V.C. children (75%). As well, Q.B. children were more shy/timid (93%) than F.V.C. children (82%).

Further analysis on the actual occurrence of behaviours revealed another important distinction between F.V.C. and Q.B.. Each court personnel in F.V.C. and Q.B. (judge, Crown attorney and defense lawyer) were analyzed separately to see if the 9 behaviours occurred more with one personnel than another. The percentage distributions of the occurrence of the behaviours with the judges and the defense lawyers in F.V.C. and Q.B. were quite similar. However, the distribution for the Crown attorneys in F.V.C. versus Q.B. differed remarkably.

Based on all of the 9 behaviours, child witnesses consistently exhibited less anxious behaviours with the F.V.C.

Crown attorneys than the Q.B. Crowns. There were 5 behaviours that occurred considerably less in F.V.C. versus Q.B.. During testimony with the Crown in F.V.C., children covered their faces less (17.7% versus 26.9%); fidgeted less (59.5% versus 73.1%); bit their fingernails less (2.5% versus 11.5%); picked at themselves less (15.2% versus 26.9%); and were less withdrawn (63.3% versus 80.8%). This is important to note not only because of the large percentage differences, but also of what these differences reflect. Crown attorneys are supposed to be advocates for the child witnesses they represent. These numbers indicate that F.V.C. Crown attorneys fulfil this role better than Q.B. Crown attorneys.

### Summary

Many of the predicted outcomes were supported by statistical evidence. The following table presents a summary of these findings.

**TABLE 31**  
**SUMMARY OF FINDINGS**

VARIABLE	FINDING*
(1) positioning of the accused	accused outside children's line of vision more often in FVC*
(2) use of legislative procedures	used infrequently in both courts
(3) number of people present during testimony	slightly fewer people in FVC
(4) number of support people present during testimony	more support people in FVC, and more with young witnesses
(5) time testifying	less time in FVC, especially for young children*
(6) case processing time	FVC cases take less time
(7) props	used infrequently in both courts
(8) use of age-appropriate language	similar in both courts
(9) supportiveness of court personnel	FVC personnel more supportive*
(10) children's anxiety level	similar in both courts

\* Indicates that a statistically significant relationship was found.

The data indicates that F.V.C. is more sensitive to the special needs of children than Q.B.. In general, F.V.C. rated better than Q.B. on all the indices; environment, time, court



personnel's behaviour and child's behaviour. However, there were analyses that favoured Q.B.. Specifically, the environment in F.V.C. was better for child witnesses because it allowed children to testify without seeing the accused, whereas in Q.B. children often had to face the accused. Also, children who had to testify in court did so for shorter periods of time in F.V.C.. Furthermore, F.V.C. cases were disposed of much more quickly than Q.B. cases. Children in F.V.C. were also permitted to use props to help them testify more often than Q.B. child witnesses. The F.V.C. experience for children was more positive also because court personnel in F.V.C. exhibited more supportive behaviour than Q.B. personnel.

Each individual hypothesis reveals a specific area in which F.V.C. is better at meeting the special needs of child witnesses. When all the hypotheses are considered together, the statistical support for the stated hypotheses shows that F.V.C. is overall a better court than Q.B. in terms of the needs of child witnesses. The data indicates that F.V.C. offers child witnesses a more supportive environment and staffing personnel. Child witnesses in F.V.C. are thus more likely to have a positive and empowering court experience. Chapter 5 will further discuss the conclusions and ramifications of the research findings.

## CHAPTER FIVE: CONCLUSIONS

The primary theoretical framework of this research, cognitive-developmental theory, offers a means to understand what can be expected from child witnesses according to their cognitive and emotional states. Furthermore, an understanding of the court environment provides a means to identify how the court environment can affect children's ability to testify. It is the interaction between personality characteristics and the situation that best explains an experience (Grusec & Lytton, 1988). The courtroom experience can be empowering or victimizing, depending on the child's personal characteristics (e.g., age, developmental level and emotional state) and outside factors (e.g., quality of adult support, courtroom setting and treatment of children in examination) (Garbarino, 1989).

This chapter will discuss the theoretical issues identified earlier in relation to the results of the study. The main goal of the study was to determine which court, F.V.C. or Q.B., better meets the special needs of child witnesses. The data on which this thesis is based supports the assertion that F.V.C. better meets these needs. F.V.C., as a specialized court, acknowledges the needs of victims. This victim-focused approach to the administration of justice allows victims to be empowered, without jeopardizing the rights of the accused or the pursuit of the truth.

The ten hypotheses that were made reflected a general speculation that F.V.C. would indeed be a more child-sensitive court system than Q.B.. A sensitivity to the needs of child witnesses is critical. Children's evidence is crucial to a case, as child abuse cases often rely solely on the victim's account. Corroborating evidence (i.e. physical evidence or witnesses) is not common (Goodman et al., 1992). Therefore, adults who deal with child witnesses must be competent to relate to and communicate with children (Saywitz & Snyder, 1993). The adults must be aware of the developmental changes in language ability and cognition that children experience (Batterman-Faunce & Goodman, 1993) and be trained to use-appropriate language (Yuille et al., 1993). The majority of the hypotheses that were made were supported by the data. There was statistical support that F.V.C. was both environmentally and emotionally more supportive than Q.B..

The physical environment of a courtroom can have an impact on children, as the power of authority is salient throughout it. Children need special protection when confronting the power of adults. If protective procedures are not followed, children may be frightened in court and thus their performance will be impaired. This is not a just system (Garbarino, 1989). The adversarial system is based on competition. Children need something more cooperative in nature.

The setting can influence children's behaviour and experience (VanderZanden, 1987). Child witnesses are usually seated in the courtroom such that the court personnel surround the witness box and the judge is positioned on a higher level than the rest of the people in the courtroom. Pre-operational and concrete operational children are particularly influenced by authority. They tend to obey rules and demands out of fear of authority (Kohlberg et al., 1983). This can make them vulnerable to aggressive court personnel. The older formal operational children, who are more independent and experienced, are not as strongly influenced by authority (Cole & Loftus, 1987). But, they can still be affected by the formality and mystery of the court process (Saywitz & Snyder, 1993).

Probably the most significant person to child witnesses is the presence and positioning of the accused. The sketches of the courtrooms in F.V.C. and Q.B. offer a clear descriptive illustration that child witnesses in Q.B. are expected to be seated facing the accused. This setting can affect the ability of the witness to provide full and candid disclosure of evidence (Sas, 1991) as facing the alleged abuser can be a frightening experience (Goodman & Clark-Stewart, 1991). There was also statistical evidence that child witnesses in Q.B. face the accused more often than they do in F.V.C.. In fact, 81.5% of the witnesses in Q.B. could see the accused while they were providing testimony, but only 32.9% in F.V.C. could.

Considering the fact that child witnesses are physically facing the accused due to the layout of the courtroom, one would expect Q.B. personnel to use legislative procedures to prevent this more often than F.V.C. personnel would. But, data to support this expectation was not found. The actual use of legislative procedures was startlingly low, which is particularly disturbing in Q.B.. It would be very easy for Crown attorneys to protect child witnesses from having to face the accused. They could request the use of a legislative procedure or simply request that the accused or the witness be seated elsewhere. The fact that this does not occur, especially in Q.B., supports the assertion that Q.B. is not sufficiently sensitive to the needs of children.

Another hypothesis that was strongly supported and which indicates that F.V.C. is more sensitive to child witnesses concerned the length of time they were required to testify for. Witnesses, particularly younger ones, were required to testify for considerably less amounts of time in F.V.C.. In F.V.C., witnesses testified for an average of 29.0 minutes with the Crown and 37.4 minutes with the defense. In Q.B., witnesses testified with the Crown for an average of 39.1 minutes and the defense for 47.2 minutes. The literature states that lengthy testimony can be a threatening and stressful experience for children (Goodman et al., 1992). The stress can affect the quality of the evidence that the children are able to provide (Goodman & Bottoms, 1993). This

analysis found that F.V.C. was most consistent and sensitive to witnesses according to their age.

The index time also included the length of time a case was in the court system. Case time is a potential stressor for witnesses, as the longer a case is in the system the more emotional disturbance it can cause children (Goodman et al., 1992). As expected, the data revealed that Q.B. cases are in the system considerably longer than F.V.C. cases. Preliminary hearings took an average of 4.6 months to be disposed of, while F.V.C. trials 4.8 months and Q.B. trials 10.15 months.

The length of time a case is in the criminal justice system has other ramifications. As the literature indicates, children develop over time (Kohlberg et al., 1983). Time and development can affect children's testimony in two ways. First, often children are testifying about abuse that happened to them years earlier. Their memory of the details of the abuse may not be too clear and their recall may be limited by the cognitive skills that were available to them at the time of the abuse. Second, child witnesses mature while they are involved in the system. They tend to develop better skills (e.g., ability to describe things and communicate) and their knowledge of the system improves (Perry & Wrightsman, 1991). Often, this improvement in their skills can work against them, as their initial evidence (i.e., the police statement or preliminary hearing testimony) can be very different from the evidence they give at the trial. The change in evidence is

due to development, though the defense can argue that the evidence is inconsistent and therefore unreliable. The most beneficial system would be one that handles cases quickly and efficiently.

Beyond the environmental and procedural aspects of court cases, there are also personnel factors that influence the witnesses' court experience. There was strong statistical support for the hypothesis that stated F.V.C. court personnel will exhibit more supportive behaviour towards child witnesses. The supportiveness of court personnel is significant because the literature states that children need a warm and supportive environment. Support by court personnel increases the likelihood of full and candid disclosure of evidence by witnesses (Batterman-Faunce & Goodman, 1993). The term supportiveness encompasses many things. Not only should court personnel be accepting and patient, they should also be aware that most children will know little about the criminal justice system. Court personnel should teach the children the rules of the legal system. Once child witnesses learn the roles and expectations, court can become less threatening to them (Saywitz & Snyder, 1993). Creating a supportive environment for child witnesses is important. Research shows that children's accuracy and suggestibility is not an age-related personality trait determined solely by cognitive maturity. Rather, it is context dependent, on the topic to be discussed, how safe the child feels and the general physical

environment (Batterman-Faunce & Goodman, 1993). Along with a supportive environment , adults must be prepared to be open to effective communication with children and to be sensitive and unbiased recipients of information (Garbarino, 1989).

The data revealed that F.V.C. personnel were more supportive than Q.B. personnel. This was particularly true of F.V.C. Crown attorneys, who rated higher than Q.B. Crowns on the supportiveness scale. Further, personnel were in general more supportive of younger children, who by virtue of their age may be more vulnerable. These ratings clearly offered support for the assertion that F.V.C. personnel are more child-sensitive than Q.B. personnel.

Personnel can be helpful in other ways, as well. The literature identifies the benefit of using props (dolls and diagrams) to assist children in giving testimony (Sas, 1991). This study found that props were seldom used. In fact, they were used only 7 times (4 dolls and 3 diagrams) and all instances were in F.V.C.. This analysis exposed poor behaviour on the part of Q.B. personnel. Props, which are beneficial and very accessible, should be used more often to assist children in an often arduous task. It is important to point out the usefulness of props based on the children's ages. Very young children (pre-operational) have a pre-logical level of reasoning and cannot sequence events (Wadsworth, 1989). They tend to focus on perceptually salient features rather than the context as a whole (Garbarino et al.,



1989). As well, their cognitive level allows them to be better at recognition tasks rather than recall tasks (Ceci et al., 1987). Therefore, often very young children require props to help them express themselves clearly and accurately. Without help and sensitivity, they are susceptible to misleading questions and subtle hints (King & Yuille, 1986). Concrete operational children, however, are more able to apply simple logic to concrete problems and can handle more complex questioning (Perry & Wrightsman, 1991). But, because they continue to be egocentric and think concretely, they still may need cues and props to elicit complete details (Saywitz & Snyder, 1993). Props can help concrete operational children because with the prompting, they can utilize their ability to seriate, sequence events and apply the concept of time to events (Garton, 1992). As long as the information is asked for clearly, concrete operational children can express themselves. Formal operational children require props perhaps the least. They are capable of scientific reasoning and abstract logic (Wadsworth, 1989). They are practical, realistic and can answer questions thoroughly. As well, they are less susceptible to suggestion and leading questions (Cole & Loftus, 1987).

There were also hypotheses that dealt with the courtroom environment that were not strongly supported by statistical evidence, but nevertheless indicate the sensitivity of F.V.C.. These hypotheses concerned the presence and identity of people

in the courtroom while the child witnesses gave testimony. There are usually people in the courtroom or gallery (located at the back of the courtroom) during child witnesses' testimony. These people can be family members of the complainant and the accused, support people or strangers. The presence of people, particularly strangers, can have a negative impact on the ability of children to testify (Sas, 1991). There was no significant difference found between the number of people present in F.V.C. (8.5) or Q.B. (9.3) proceedings. This was true for a comparison by age as well as by court.

The differences between the courts was found when the identity of the people were considered. The identity of the people present in the courtroom is relevant because certain people offer different types of support for the child witnesses. People who are close to the children (i.e., family and friends) can offer personal support while others (advocates) can offer professional support. Personal and professional support can be very different from each other. The writer postulates that personal support is probably more beneficial to the children because of the emotional nature of the court process. The literature states that children tend to talk more to people they are familiar with or when a support person they know is present on their behalf (Garbarino et al., 1989). This does not underestimate the importance of professional support, as professionals are trained to offer

emotional support, as well as to ensure that children are properly prepared for the technicalities of the court process. The data determined that 83.5% of the witnesses had support people present in F.V.C. proceedings, with the majority being personal support, though there was a near balance of professional support, as well. In Q.B., however, there were support people present only 77.8% of the time, and the majority of these people were professional support. The diversity in the F.V.C support system - personal and professional support - creates the potential for a balance for the children that Q.B. does not.

When the above analyses and data are considered together, there is strong support for the claim that F.V.C. can better meet the special needs of child witnesses because F.V.C. offers a more child-sensitive and victim-focused approach than Q.B.. F.V.C. rated better in terms of environmental and personnel factors than Q.B.. This would lead one to speculate that witnesses in F.V.C. would have a more positive court experience than Q.B witnesses.

There were areas, however, that indicate similarities between the two courts. This was true for the hypotheses concerning the use of age-appropriate language and the behaviour of the child witnesses. In general, the analysis on age-appropriate language found that personnel in F.V.C. and Q.B. frequently used words, sentence structure and meanings that children were capable of understanding. The literature

identifies the use of language by court personnel as a very important issue when dealing with cases involving child witnesses. Lawyers may use technical words and specialized legal vocabulary that child witnesses cannot understand in order to be persuasive and authoritative (Yarmey, 1979). Batterman-Faunce and Goodman (1993) approach the use of language as a developmental issue. Children, depending upon their age, have different linguistic and cognitive abilities.

The literature indicates that children of different ages understand things and express themselves differently. For example, pre-operational children have a limited language ability and may interpret questions and phrases incorrectly (Wadsworth, 1989). Concrete operational children become better at using language, but due to their continued egocentrism, may believe that they are expressing themselves clearly when in fact they are not (Yarmey, 1979). On the other hand, formal operational children become linguistically competent communicators (Garton, 1992). Their practical and realistic perspective allows them to have more control over their attention span and memory (Yarmey, 1979).

Differences in the use of language were slight. In general, Crown attorneys in both F.V.C. and Q.B. used the most age-appropriate language (4.3) followed by judges (4.1) and then defense lawyers (3.7). When the age of the child witnesses were considered, the data revealed that F.V.C. and Q.B. personnel tended to treat children of all ages relatively

the same. Though the anticipated differences in the use of age-appropriate language were not found, it is important to note that a general trend was found. That is, Crown attorneys, particularly F.V.C. Crowns, used the most age-appropriate language, followed by judges and defense lawyers. The fact that such high averages were found is encouraging.

A similarity between the two courts was also found when the behaviour of the child witnesses was analyzed. Their behaviour was rated according to an anxiety scale, as well as an actual count of the occurrence of 9 particular behaviours. In terms of the anxiety scale, child witnesses were not very anxious with F.V.C. judges (.63) or Q.B. judges (.67). They were slightly more anxious with F.V.C. Crown (.76) and Q.B. Crown (.83). Similarly, they were a little anxious with F.V.C. defense (.83) and Q.B. defense (.82). When the age of the child witnesses was factored into the analysis, no significant differences were discovered. The anxiety levels were much lower than anticipated. Higher anxiety levels were expected, particularly with Q.B. personnel and defense lawyers, due to the fact that the other variables indicate that these personnel are not as sensitive to children as F.V.C. personnel are.

Similar results were found when a count of the actual occurrence of the 9 behaviours was done. In general, the behaviours occurred in both courts to a similar extent. Crown attorneys than the Q.B. Crowns. There were, however, a few

notable differences in terms of specific behaviours. Child witnesses covered their faces more in Q.B. (41%) than they did in F.V.C. (25%); they were more withdrawn (86% versus 75%); and they were more shy/timid (93% versus 82%). Furthermore, when Crown attorneys were analyzed separately, the data revealed that child witnesses exhibited less anxious behaviours with the F.V.C. Crown attorney than the Q.B. Crown. Despite the fact that Crown attorneys are supposed to be advocates for the children, regardless of the court the Crown is in, Q.B. Crowns do not fulfil this role as well as F.V.C. Crown.

Based on the fact that differences were found in the court environment, significant differences were then expected in anxiety levels of the children in F.V.C. compared to Q.B.. While a slight difference was found in the predicted direction, significant differences were not found. Perhaps, then, the anxiety level of the children is not the best indicator of the impact of differences in the courtroom environment and child testimony. The courtroom experience, whether in F.V.C. or Q.B., can be a very anxiety-provoking experience due to the nature of the proceedings. It would be fair to say that virtually anyone, adult or child, would be anxious at the prospect of having to testify. The goal, therefore, would be to provide an environment that is as friendly and comfortable as possible for children to provide testimony under the least stressful conditions.

In fact, that is exactly what specialization seems to have done. All things being equal, it would be expected that Q.B. witnesses would have lower anxiety levels due to the fact that their cases and ability to testify were screened two times more than F.V.C. cases. The writer, however, hypothesized that specialization would moderate, and in fact, reverse this effect, resulting in higher anxiety levels in Q.B.. Indeed, specialization did moderate the expected differences in anxiety levels, but did not have a sufficient impact to reverse it.

Overall, the data suggests support for the assertion that F.V.C. is a more child-sensitive environment than Q.B.. Significant differences were found between the courts on many variables. The variables that did not reveal differences seem to reflect areas that both courts are doing a reasonable job in (i.e., the frequent use of age-appropriate language and the low anxiety levels).

The literature discussed throughout this research identifies the progress that has been made in the criminal justice system to improve the court experience for child witnesses (see Bala, 1991; Driver & Droisen, 1989; Garbarino, 1989; Goodman, 1989; and, Sas, 1991). Bill C-15 is an example of this progress. It offers legislative authority to protect and assist children while they are involved in the system. The amendments to the Criminal Code and the Canada Evidence Act, as outlined in Bill C-15, have made receiving children's

evidence a much less structured process. These changes can help improve the treatment of children in court, as children will be assessed according to their age and ability. Unfortunately, these legislative gains cannot serve their purpose unless they are being utilized and enforced in environments and by personnel that understand the special needs of child witnesses.

The changes that are necessary include the actual physical layout of the courtroom, as well as the proper training of the court personnel. The courtrooms must be designed so that the child witnesses do not have to face the accused or feel threatened by the other court personnel (i.e., the judge hovering over them). Furthermore, the personnel who deal with child witnesses must be trained as to the developmental, situational and emotional factors that can influence children.

According to this research, these changes are evident in F.V.C., but are still required in Q.B.. Q.B. courtrooms are not designed with the child in mind, as the witness box usually directly faces the accused. The personnel in Q.B. are also not as supportive as they are in F.V.C.. Proper training would likely sensitize personnel to the special needs of child witnesses. These changes are easily attainable. It would not be difficult to change the physical layout of a courtroom, or to even schedule child abuse cases in courtrooms that are already designed with the child in mind (i.e., F.V.C.



courtrooms). In terms of personnel training, there are many qualified instructors and resources available to educate them. As long as the needs of the children are seen as a priority, things can change very easily.

The question to be answered, then, is to what extent does specialization meet the special needs of child witnesses? The F.V.C. is based on the strategy of specialization. The belief is that with specialization, the operation of the court system will become child-sensitive. As discussed, some of the data indicates that specialization does not guarantee change will occur (as F.V.C. ranked low on some indices); and that change is possible in the absence of specialization (as Q.B. ranked high on some indices). On balance, however, the writer would argue, based on this research, specialization does help to meet the special needs of children.

First, specialization is necessary in order to acknowledge that children, as witnesses, require special attention. Specialization maximizes the children's ability to testify accurately by addressing the needs of children. The fact that Q.B. cases are screened twice as often as F.V.C. cases would result in the expectation that Q.B. witnesses would outperform F.V.C. witnesses. But, this is not the case. Specialization, it seems, moderates the affect of this and puts F.V.C. witnesses on an equal, or even more advantageous, level than Q.B. witnesses. Specialization creates a child-

sensitive environment which compensates for the lack of screening characteristic of provincial court.

Second, specialization is necessary and important at the provincial court level because it handles hundreds of child abuse cases every year. In order for the cases to be processed properly and the child witnesses to be treated appropriately, a specialized system should be in place. Perhaps in Q.B., where considerably fewer cases (which are screened three times) are handled, they can rely on the experience and opinion of the court personnel. Specialization identifies the needs of the victim as an important issue, which is a fundamental step towards ensuring that change will occur.

#### Future Research

Apart from providing valuable evidence for the needed improvements to the court system in Manitoba, especially in Q.B., the data in this research also identifies areas of future research. This study described the effects of the courtroom experience on child witnesses according to what the literature states and from data collected by research assistants. It would be interesting and useful to interview the child witnesses themselves to determine their feelings and opinions of the courtroom experience. The personal interviews

and the present data could be compared to get a comprehensive understanding of the courtroom experience.

Beyond the actual experience of the child witnesses, it would be interesting to assess the case outcome of the sexual abuse cases according to the court in which they were disposed. Cases that proceed to Q.B. undergo a stringent screening process (including a preliminary hearing) and thus the evidence is stronger. Therefore, it would be expected that Q.B. cases receive guilty verdicts more often than F.V.C. cases. If the research indicates they do not, the reason for this could then be analyzed.

Any research that attempts to provide more insight and understanding into the area of child witnesses in the criminal justice system is valuable. It is clear that children should not be treated in the same manner as adults in a courtroom, as it may affect their ability to give full and candid disclosure of their evidence. It is important to know that there are factors that influence children's ability to testify. Unless children are treated age-appropriately within a child-sensitive environment, the court will not be able to properly investigate and prosecute allegations of sexual abuse.

**APPENDIX A**

**Child Observation Schedule & Code Book**

**CHILD OBSERVATION SCHEDULE  
FAMILY VIOLENCE COURT  
APRIL 29, 1991**

CVAR1 CASE NAME

-----

CVAR2 I.D. NUMBER

-----

CVAR3 NUMBER OF ACCUSED

-

CVAR4 TRIAL JUDGE \*\* SEE CODE BOOK PAGE 2A \*\*

--

ORIGINAL CHARGES AT TRIAL (# OF COUNTS): \*\*SEE CODE BOOK PAGE 1\*\*

CVAR5A CHARGE 1

CVAR5B#

--

CVAR5C (STAY ... 1 PROCEED ... 2 DISMISS ... 3 PLEA B.... 4)

-

-

CVAR6A CHARGE 2

CVAR6B#

--

CVAR6C

-

-

CVAR7A CHARGE 3

CVAR7B#

--

CVAR7C

-

-

CVAR8A CHARGE 4

CVAR8B#

--

CVAR8C

-

CVAR9A CHARGE 5

CVAR9B#

--

CVAR9C

-

CVAR10A CHARGE 6

CVAR10B#

--

CVAR10C

-

-

CVAR11A CHARGE 7

CVAR11B#

--

CVAR11C

-

-

CVAR12A CHARGE 8

CVAR12B#

--

CVAR12C

-

-

CVAR13A CHARGE 9

CVAR13B#

--

CVAR13C

-

-

CVAR14A CHARGE 10

CVAR14B#

--

CVAR14C

-

-

CVAR15 IF NOT A TRIAL, TYPE OF HEARING/APPEARANCE:

FIRST APPEARANCE .....	1
REMAND .....	2
PRELIMINARY HEARING.....	3
ENTER A GUILTY PLEA .....	4
SPEAK TO SENTENCE .....	5
OTHER (SPECIFY) _____	6
NOT APPLICABLE .....	7

CVAR16 IF TRIAL, TYPE OF TRIAL:

PROVINCIAL COURT JUDGE ALONE .....	1
PROVINCIAL COURT JUDGE AND JURY .....	2
QUEEN'S BENCH JUDGE ALONE .....	3
QUEEN'S BENCH JUDGE AND JURY .....	4
NOT APPLICABLE .....	7

CVAR17 WHERE WAS CASE HEARD

FAMILY VIOLENCE COURT .....	1
PROVINCIAL COURT .....	2
QUEEN'S BENCH .....	3

CVAR18 WAS THE VICTIM ACCOMPANIED INTO COURT BY A SUPPORTIVE OTHER.

YES .....	1
NO .....	2
NOT APPLICABLE .....	7
NO INFORMATION .....	9

CVAR19 SPECIFY WHO ACCOMPANIED

PARENT .....	1
GUARDIAN .....	2
ADVOCATE .....	3
PARENT AND ADVOCATE .....	4
OTHER .....	5

CVAR20 RELATION OF VICTIM TO ACCUSED \*\* SEE CODE BOOK PAGE 28 \*\*

CVAR21 SEX OF CHILD

CVAR22 AGE OF CHILD

CVAR23 NUMBER OF TIMES CHILD ATTENDED COURT

CVAR24 CHILD TESTIFIED (YES ... 1 NO ... 2)

CVAR25 TOTAL LENGTH OF TIME CHILD TESTIFYING THIS HEARING (IN MINUTES)

COURTROOM ENVIRONMENT DURING CHILD'S TESTIMONY

- CVAR26 VIDEOTAPE USED FOR CHILD'S TESTIMONY (YES ... 1 NO ... 2) -
- CVAR27 CHILD TESTIFIES BEHIND SCREEN -
- CVAR28 WITNESSES CLEARED FROM COURT DURING CHILD'S TESTIMONY -
- CVAR29 SUPPORT ADULT STAYS IN COURTROOM -
- CVAR30 PUBLIC CLEARED FROM COURT DURING CHILD'S TESTIMONY -
- CVAR31 ADULT ACCOMPANIES CHILD TO STAND -
- CVAR32 CHILD TESTIFIES WITH CLOSED-CIRCUIT TELEVISION -
- CVAR33 CHILD GIVEN BOOSTER SEAT -
- CVAR34 ADULT HOLDS CHILD ON KNEE -
- CVAR35 CHILD ALLOWED TO BRING IN TOY, BLANKET, ETC. -
- CVAR36 ACCUSED SITUATED OUTSIDE OF CHILD'S LINE OF VISION -
- CVAR37 ACCUSED CLEARED FROM COURT -
- CVAR38A EXPERT TESTIFIES ABOUT SIGNIFICANCE OF CHILD'S TESTIMONY -
- CVAR38B EXPERTS OCCUPATION \*\* SEE CODE BOOK 2C \*\* -
- CVAR38C FOR WHAT PURPOSE \*\* SEE CODE BOOK 2D \*\* -
- CVAR39A CHILD PERMITTED TO TESTIFY WITH AID OF PROPS -
- CVAR39B SPECIFY TYPE OF PROPS USED DIAGRAMS ... 1 DOLLS ... 2) -
- CVAR40A OTHER INNOVATIVE PROCEDURES USED -
- CVAR40B SPECIFY \_\_\_\_\_ -
- CVAR41A DID ANYTHING OCCUR WHICH ADDED TO CHILD'S STRESS -
- CVAR41B SPECIFY \*\* SEE CODE BOOK PAGE 3A \*\* -
- CVAR42 NUMBER OF PEOPLE IN COURT ROOM DURING CHILD'S TESTIMONY -
- \*\* SEE CODE BOOK 3B \*\* -

CHILD'S BEHAVIOUR DURING QUESTIONING

- CVAR44 LENGTH OF TESTIMONY -



\*\* CHILD'S BEHAVIOUR RATING USE THE FOLLOWING FOR CB1 TO CB22 \*\*

NO 0	A LITTLE 1	MODERATE		A LOT 3
		JUDGE 1	CROWN 2	
				DEFENCE 3
CB1 LAUGHS INAPPROPRIATELY		_____	_____	_____
CB2 COVERS FACE		_____	_____	_____
CB3 FIDGETS		_____	_____	_____
CB4 BITES FINGERNAILS		_____	_____	_____
CB5 PICKS AT SELF		_____	_____	_____
CB6 THUMBSUCKING		_____	_____	_____
CB7 ANXIOUS		_____	_____	_____
CB8 SAD		_____	_____	_____
CB9 CRIES		_____	_____	_____
CB10 WITHDRAWN		_____	_____	_____
CB11 WORRIED		_____	_____	_____
CB12 WHINING		_____	_____	_____
CB13 SHY/TIMID		_____	_____	_____
CB14 EASILY EMBARRASSED		_____	_____	_____
CB15 STARES BLANKLY		_____	_____	_____
CB16 APPEARS CONFUSED		_____	_____	_____
CB17 CLINGS TO ADULT		_____	_____	_____
CB18 ANGRY		_____	_____	_____
CB19 COOPERATIVE		_____	_____	_____
CB20 SWEARS		_____	_____	_____
CB21 SELF-CONFIDENT		_____	_____	_____
CB22 CHILD LOOKS AT ACCUSED		_____	_____	_____

\*\* USE THE FOLLOWING FOR CB23 TO CB25 \*\*

YES ... 1 NO ... 2 NA ... 7 NI ... 9

CB23 TRIES TO HIDE	_____	_____	_____
CB24 RUNS FROM COURT	_____	_____	_____
CB25 ASKS FOR WATER, KLEENEX OR GO TO THE BATHROOM	_____	_____	_____

CHILD COMMUNICATION

CC1 # TIMES CHILD ASKS FOR AN EXPLANATION (ACTUAL NUMBER)	_____	_____	_____
--	-------	-------	-------

\*\* USE THE FOLLOWING FOR CC2 TO CC9 \*\*

NOT AT ALL	LITTLE	SOMEWHAT	VERY	UNABLE TO RATE
1	2	3	4	5
		JUDGE	CROWN	DEFENCE
		1	2	3
CC2 CHILD'S SPEECH - HOW FLUENT	_____	_____	_____	_____
CC3 CHILD'S SPEECH - HOW AUDIBLE	_____	_____	_____	_____
CC4 ABILITY TO ANSWER QUESTIONS	_____	_____	_____	_____
CC5 DETAIL SPONTANEOUSLY PROVIDED	_____	_____	_____	_____
CC6 CONFIDENCE WHILE TESTIFYING	_____	_____	_____	_____
CC7 INFLUENCED BY LEADING QUESTION	_____	_____	_____	_____
CC8 DEGREE OF CONSISTENCY	_____	_____	_____	_____

DID THE CHILD RECANT:

\*\* USE THE FOLLOWING FOR CC9A TO CC9G\*\*  
 YES ... 1 NO ... 2 NA ... 7 NI ... 9

	JUDGE 1	CROWN 2	DEFENCE 3
CC9A SEXUAL ASSAULT	_____	_____	_____
CC9B IDENTITY OF PERPETRATOR	_____	_____	_____
CC9C # OF TIMES ASSAULTED	_____	_____	_____
CC9D LOCATION OF ASSAULT	_____	_____	_____
CC9E TIME OF ASSAULT(S)	_____	_____	_____
CC9F NATURE OF ASSAULT(S)	_____	_____	_____
CC9G PERIPHERAL DETAILS	_____	_____	_____

COURT COMMUNICATION

	JUDGE	CROWN	DEFENCE
COURT1 # OF TIMES CHILD IS ASKED TO SPEAK LOUDER OR GIVE A VERBAL RESPONSE	_____	_____	_____
COURT2 # OF TIMES JUDGE ASKS CHILD TO SPEAK LOUDER OR GIVE VERBAL RESPONSE	_____	_____	_____

\*\* USE THE FOLLOWING FOR COURT3 TO COURTS \*\*

	1 NONE	2 SOME	3 HALF	4 MANY	5 ALL	9 UNABLE TO RATE
COURT3 DEGREE OF AGE APPROPRIATE LANGUAGE USED (WORDS AND GRAMMAR)				JUDGE _____	CROWN _____	DEFENCE _____
COURT4 DEGREE OF AGE APPROPRIATE CONTENT USED				_____	_____	_____
COURT5 FREQUENCY OF LEADING QUESTIONS				_____	_____	_____
COURT6 ATTEMPTED TO ESTABLISH RAPPORT WITH CHILD YES ... 1 NO ... 2				_____	_____	_____

USE THE FOLLOWING FOR COURT 7

1                    2                    3                    4                    5                    9  
 NOT AT ALL                    NEUTRAL                    VERY                    UNABLE TO RATE

JUDGE                    CROWN                    DEFENCE

COURT7 DEGREE OF SUPPORTIVENESS                    \_\_\_\_\_

COURT8 # OF TIMES JUDGE QUESTIONED CHILD                    \_\_\_\_\_

PURPOSE OF JUDGE'S COMMUNICATION

JUDGE                    CROWN                    DEFENCE

COURT9A FACTUAL INFORMATION  
 EXPANSION/CLARIFICATION  
 YES ... 1 NO ... 2                    \_\_\_\_\_

COURT9B RESTATING OR CLARIFYING CHILD 'S  
 TESTIMONY  
 YES ... 1 NO ... 2                    \_\_\_\_\_

COURT9C COMPETENCE  
 YES ... 1 NO ... 2                    \_\_\_\_\_

COURT9D PROTECTION OF THE CHILD  
 YES ... 1 NO ... 2                    \_\_\_\_\_

COURT9E OTHER SPECIFY \_\_\_\_\_  
 YES ... 1 NO ... 2                    \_\_\_\_\_

**CHILD OBSERVATION SCHEDULE CODE BOOK  
FAMILY VIOLENCE COURT  
APRIL 4, 1991**

CHARGE CODE

MURDER .....	11
ATTEMPTED MURDER .....	12
MANSLAUGHTER .....	13
ASSAULT WITH A WEAPON .....	14
AGGRAVATED ASSAULT .....	15
ASSAULT CAUSING BODILY HARM .....	16
COMMON ASSAULT/ASSAULT .....	17
SEXUAL ASSAULT .....	18
SEXUAL ASSAULT THREATS/BODILY HARM/WEAPON ...	19
AGGRAVATED SEXUAL ASSAULT .....	20
UNLAWFUL/FORCIBLE CONFINEMENT .....	21
BREAK AND ENTER .....	22
ATTEMPTED BREAK & ENTER .....	23
UNLAWFULLY IN A DWELLING .....	24
UTTERING THREATS .....	25
POSS. WEAPON DANGEROUS TO PUBLIC PEACE .....	26
BREACH OF RECOGNIZANCE .....	27
BREACH OF PROBATION .....	28
BREACH OF COURT ORDER/PEACE BOND .....	29
MISCHIEF .....	30
ABDUCTION .....	31
CAUSING DISTURBANCE .....	32
HARASSING/ANNOYING PHONE CALLS .....	33
HOUSEBREAK ENTER W/INTENT .....	34
SEXUAL INTERFERENCE .....	35
POINTING A FIREARM .....	36
INVITATION TO SEXUAL TOUCHING .....	37
POSSESSION OF PROHIBITED WEAPON .....	38
SEXUAL EXPLOITATION .....	39
FMA .....	40
HTA .....	41
INDECENT ASSAULT .....	42
SEXUAL INTERFERENCE UNDER 14 .....	43
GROSS INDECENCY .....	44
INCEST .....	45
ASSAULTING A POLICE OFFICER .....	46
FORCIBLE ENTRY .....	47
ANAL INTERCOURSE .....	48
BESTIALITY .....	49
OTHER .....	50
NO INFORMATION .....	99

2A TRIAL JUDGE CODE

MYERS .....	01
DEVINE .....	02
KOPSTEIN .....	03
COLLERMAN .....	04
MITCHELL .....	05
GARFINKEL .....	06
GUY .....	07
KRAMER .....	08
KIMMELMAN .....	09
CONNOR .....	10
ALLEN .....	11
DUVAL .....	12
GIESBRECHT .....	13
SWAIL .....	14
RUBIN .....	15
HARRIS .....	16

2B RELATIONSHIP CODE

NATURAL CHILD .....	01
STEP CHILD .....	02
FRIEND .....	03
KNOWN ACQUAINTANCE .....	04
STRANGER .....	05
OTHER SPECIFY _____	06
NO INFORMATION .....	99

2C EXPERT'S OCCUPATION CODE

MEDICAL DOCTOR .....	01
SOCIAL WORKER .....	02
PSYCHIATRIST .....	03
PSYCHOLOGIST .....	04
CHILD ABUSE SPECIALIST .....	05
OTHER SPECIFY _____	06

2D PURPOSE OF EXPERTS TESTIMONY CODE

TESTIFIED DEGREE OF PHYSICAL DAMAGE .....	01
TESTIFIED DEGREE OF EMOTIONAL DAMAGE .....	02
TESTIFIED DEGREE OF COMPETENCE OF CHILD .....	03
TESTIFIED AS TO ACCUSED STATE OF MIND .....	04
OTHER SPECIFY _____	05
NOT APPLICABLE .....	77

3A CHILD'S ADDED STRESS CODE

3B NUMBER OF PEOPLE IN ATTENDANCE IN COURT ROOM CODE	
1-10 .....	01
11-20 .....	02
21-30 .....	03
31-40 .....	04
41-50 .....	05
51-60 .....	06
>60 .....	07



**APPENDIX B**

**Child Abuse Monitoring Schedule & Code Book**

**MONITORING SCHEDULE  
TRIALS AND GUILTY PLEAS  
CHILD ABUSE  
FEBRUARY 5, 1992**

CMVAR1 CASE NAME -----  
 CMVAR2 I.D. NUMBER -----  
 CMVAR3 POLICE NUMBER -----  
 CMVAR4 DATE OF FIRST APPEARANCE -----  
 CMVAR5 TRIAL DATE (OR GP ENTERED)(OR PH DATE) -----  
 CMVAR6 INPUT NUMBER -----  
 CMVAR7 TRIAL JUDGE \*\* SEE CODE BOOK PAGE 7A \*\* --  
 CMVAR8 CROWN (STANNARD ... 1 RIDD ... 2 ST. HILL ... 3 ROOSEWINKLE...4)  
 OTHER ... 5  
 CMVAR9 LEGAL AID

ORIGINAL CHARGES (# OF COUNTS): \*\*SEE CODE BOOK PAGE 1\*\*

CMVAR10A CHARGE 1  
 CMVAR10B# --  
 CMVAR10C (STAY ... 1 PROCEED ... 2 DISMISS ... 3 PLEA B.... 4)\_  
 CMVAR11A CHARGE 2  
 CMVAR11B# --  
 CMVAR11C --  
 CMVAR12A CHARGE 3  
 CMVAR12B# --  
 CMVAR12C --  
 CMVAR13A CHARGE 4  
 CMVAR13B# --  
 CMVAR13C --  
 CMVAR14A CHARGE 5  
 CMVAR14B# --  
 CMVAR14C --  
 CMVAR15A CHARGE 6  
 CMVAR15B# --  
 CMVAR15C --  
 CMVAR16A CHARGE 7  
 CMVAR16B# --  
 CMVAR16C --  
 CMVAR17A CHARGE 8  
 CMVAR17B# --  
 CMVAR17C --  
 CMVAR18A CHARGE 9  
 CMVAR18B# --  
 CMVAR18C --  
 CMVAR19A CHARGE 10  
 CMVAR19B# --  
 CMVAR19C --

CMVAR20A DATE OF INCIDENCE  
 CMVAR20B DURATION OF ABUSE IN MONTHS  
 CMVAR20C TYPE OF CASE  
 (SEXUAL ... 1 PHYSICAL ... 2 SEXUAL & PHYSICAL ... 3 ABDUCTION ... 4)  
 OTHER ... 6 (I.E. FAIL COMPLY)

CMVAR21 ORIGIN OF CASE  
 FAMILY VIOLENCE COURT ..... 1  
 IMPORT ..... 2  
 TRANSFER ..... 3

CMVAR22 IF NOT A TRIAL, TYPE OF HEARING/APPEARANCE:  
 PRELIMINARY HEARING..... 3  
 ENTER A GUILTY PLEA ..... 4  
 TRIAL PROVINCIAL COURT ..... 5  
 TRIAL QB ..... 6  
 PEACE BOND (I.E. WITH SOP) ..... 8

CMVAR23 IF TRIAL, TYPE OF TRIAL:  
 PROVINCIAL COURT JUDGE ALONE ..... 1  
 REELCTION ..... 2  
 QUEEN'S BENCH JUDGE ALONE ..... 3  
 QUEEN'S BENCH JUDGE AND JURY ..... 4  
 NOT APPLICABLE ..... 7

CMVAR24 CROWN ELECTION  
 INDICTMENT ..... 1  
 SUMMARY ..... 2  
 BOTH ..... 3  
 NO INFORMATION ..... 9

CMVAR25 WHERE WAS CASE HEARD  
 FAMILY VIOLENCE COURT ..... 1  
 QUEEN'S BENCH ..... 3

CMVAR26 WAS THE VICTIM ACCOMPANIED INTO COURT BY A SUPPORTIVE OTHER. \_  
 YES ..... 1  
 NO ..... 2  
 NOT APPLICABLE ..... 7  
 NO INFORMATION ..... 9

CMVAR27 SPECIFY WHO ACCOMPANIED  
 PARENT ..... 1  
 GUARDIAN ..... 2  
 ADVOCATE ..... 3  
 PARENT AND ADVOCATE ..... 4  
 OTHER ..... 5

CMVAR28A SUSPECT-VICTIM RELATIONSHIP: \*\*SEE CODE BOOK PAGE 2A\*\_ \_  
 CMVAR28B IF MULTIPLE SUSPECT/VICTIM RELATIONSHIP \*\*SEE CODE PAGE 2B\*\* \_  
 CMVAR29 OFFENCE REPORTED BY: \*\*SEE CODE BOOK PAGE 2C\*\* \_ \_

SEX OF VICTIM(S):  
 CMVAR30A VICTIM 1 (MALE ... 1) (FEMALE ... 2)  
 CMVAR30B VICTIM 2  
 CMVAR30C VICTIM 3  
 CMVAR30D VICTIM 4

AGE OF VICTIM(S) (IN YEARS)  
 CMVAR31A AGE OF VICTIM 1 ---  
 CMVAR31B AGE OF VICTIM 2 ---  
 CMVAR31C AGE OF VICTIM 3 ---  
 CMVAR31D AGE OF VICTIM 4 ---

CMVAR32 EMPLOYMENT STATUS OF VICTIM  
 \*\*SEE CODE BOOK PAGE 2D\*\* ---

CMVAR33 RACE OF VICTIM:  
 \*\*SEE CODE BOOK PAGE 3A\*\* -

CMVAR34A WAS THERE A LANGUAGE BARRIER (YES ... 1 NO ... 2) -

CMVAR34B IF YES TO CMVAR34A, INTERPRETOR USED?  
 (YES ... 1 NO ... 2 NA ... 7) -

CMVAR35 DISABILITY OF VICTIM:  
 YES ..... 1 -  
 NO ..... 2

IF YES TO CMVAR35, TYPE OF DISABILITY  
 \*\*SEE CODE BOOK PAGE 3B \*\*

CMVAR36A DISABILITY 1 ---  
 CMVAR36B DISABILITY 2 ---  
 CMVAR36C DISABILITY 3 ---

SEX OF SUSPECT(S):  
 CMVAR37A SUSPECT 1 (MALE ... 1) (FEMALE ... 2) ---  
 CMVAR37B SUSPECT 2 -  
 CMVAR37C SUSPECT 3 -  
 CMVAR37D SUSPECT 4 -

AGE OF SUSPECT(S) (IN YEARS)  
 CMVAR38A AGE OF SUSPECT 1 ---  
 CMVAR38B AGE OF SUSPECT 2 ---  
 CMVAR38C AGE OF SUSPECT 3 ---  
 CMVAR38D AGE OF SUSPECT 4 ---

CMVAR39 EMPLOYMENT STATUS OF DEFENDENT  
 \*\*SEE CODE BOOK PAGE 2D\*\* ---

CMVAR40 RACE OF DEFENDENT:  
 \*\*SEE CODE BOOK PAGE 3A\*\* -

CMVAR41A WAS THERE A LANGUAGE BARRIER? (YES ... 1 NO ... 2) -

CMVAR41B IF YES TO CMVAR34A, INTERPRETOR USED?  
 (YES ... 1 NO ... 2 NA ... 7) -

CMVAR42 DISABILITY OF DEFENDENT:  
 YES ..... 1 -  
 NO ..... 2

IF YES TO CMVAR42, TYPE OF DISABILITY  
 \*\*SEE CODE BOOK PAGE 3B \*\*

CMVAR43A DISABILITY 1 ---  
 CMVAR43B DISABILITY 2 ---  
 CMVAR43C DISABILITY 3 ---

CMVAR44	CHARGES ADDED.		
	YES .....	1	-
	NO .....	2	
	NOT APPLICABLE .....	7	
CMVAR45A	CHARGE 1 ADDED	**SEE CODE BOOK PAGE 1**	
CMVAR45B#	COUNTS		--
CMVAR46A	CHARGE 2 ADDED		
CMVAR46B#	COUNTS		--
CMVAR47A	CHARGE 3 ADDED		
CMVAR47B#	COUNTS		--
CMVAR48	WAS THERE A CHANGE OF PLEA?		
	YES .....	1	-
	NO .....	2	
	NOT APPLICABLE .....	7	
CMVAR49	IF YES TO CMVAR48, WHAT WAS THE PLEA?		
	GUILTY TO ORIGINAL CHARGE(S) .....	1	-
	GUILTY TO A LESSER OFFENCE .....	2	
	GUILTY TO FEWER OFFENSES .....	3	
	OTHER (SPECIFY) _____	4	
	NOT APPLICABLE .....	7	
CMVAR50	WHEN WAS THE CHANGE OF PLEA ENTERED?		
	BEFORE TRIAL COMMENCED .....	1	-
	DURING CROWN'S CASE .....	2	
	AT CONCLUSION OF CROWN'S CASE .....	3	
	DURING DEFENCE'S CASE .....	4	
	OTHER (SPECIFY) _____	5	
	NOT APPLICABLE .....	7	

\*\*\* IF GUILTY PLEA COMPLETE CMVAR51 TO CMVAR55 \*\*\*

CMVAR51 WERE THERE ANY INJURIES  
YES ..... 1 -  
NO ..... 2  
NOT APPLICABLE ..... 7

IF YES TO CMVAR51, SPECIFY: \*\*SEE CODE BOOK PAGE 3C \*\*

CMVAR52A INJURY 1  
CMVAR52B INJURY 2 - -

CMVAR53 DID VICTIM RECEIVE MEDICAL ATTENTION  
YES ..... 1 -  
NO ..... 2  
NOT APPLICABLE ..... 7  
NO INFORMATION ..... 9

CMVAR54 USE OF DRUGS/ALCOHOL  
(VICTIM ... 1 ACCUSED ... 2 BOTH ... 3 NEITHER ... 4 NĪ ... 9)

CMVAR55A DID THE DEFENDANT MAKE A STATEMENT WHICH THE  
CROWN SOUGHT TO INTRODUCE AS INFORMATION?  
YES ..... 1 -  
NO ..... 2  
NO INFORMATION ..... 9

CMVAR55B TO WHOM WAS THE STATEMENT MADE?  
POLICE ..... 1 -  
OTHER (SPECIFY) \_\_\_\_\_ 2  
NOT APPLICABLE ..... 7

\*\*\* IF TRIAL COMPLETE CMVAR56 TO CMVAR98 \*\*\*

CMVAR56 DID VICTIM/WITNESS APPEAR?  
YES ..... 1 -  
NO ..... 2

CMVAR57 IF NO TO CMVAR56, WAS A WARRANT ISSUED?  
YES ..... 1 -  
NO ..... 2

CMVAR58 WERE CHARGES DISMISSED?  
YES ..... 1 -  
NO ..... 2

CMVAR59 REASON FOR DISMISSAL  
\*\*SEE CODE PAGE 3D\*\* - -

CMVAR60 WAS THE VICTIM UNCOOPERATIVE?  
YES ..... 1 -  
NO ..... 2  
NOT APPLICABLE ..... 7

CMVAR61 DID CROWN MOVE TO HAVE WITNESS DECLARED HOSTILE?  
YES ..... 1 -  
NO ..... 2  
NOT APPLICABLE ..... 7

CMVAR62 IF NO TO CMVAR61, WAS CASE STAYED? -  
 YES ..... 1  
 NO ..... 2

CMVAR63 REASON FOR STAY --  
 \*\*SEE CODE BOOK PAGE 3D\*\*

CROWN'S CASE

IF THE VICTIM TESTIFIED, BRIEFLY DESCRIBE THE TESTIMONY.  
 \*\*SEE CODE BOOK PAGE 4A\*\*

CMVAR64A VICTIM'S STATEMENT 1 --  
 CMVAR64B VICTIM'S STATEMENT 2 --  
 CMVAR64C VICTIM'S STATEMENT 3 --  
 CMVAR64D VICTIM'S STATEMENT 4 --  
 CMVAR64E VICTIM'S STATEMENT 5 --  
 CMVAR65 WERE THERE ANY INJURIES -  
 YES ..... 1  
 NO ..... 2  
 NOT APPLICABLE ..... 7

IF YES TO CMVAR65, SPECIFY: \*\*SEE CODE BOOK PAGE 3C \*\*

CMVAR66A INJURY 1 --  
 CMVAR66B INJURY 2 --

CMVAR67 DID VICTIM RECEIVE MEDICAL ATTENTION -  
 YES ..... 1  
 NO ..... 2  
 NOT APPLICABLE ..... 7  
 NO INFORMATION ..... 9

CROSS EXAMINATION OF VICTIM:

CMVAR68A HER/HIS USE OF ALCOHOL/DRUGS? (YES ... 1) (NO ... 2) (NA ... 7) \_  
 CMVAR68B NATURE OF INJURIES OR LACK THEREOF -  
 CMVAR68C RESISTANCE (ON CHILD'S PART) -  
 CMVAR68D DID THE VICTIM DISCLOSE -  
 CMVAR68E PROVOCATION? -  
 CMVAR68F RETALIATION? -  
 CMVAR68G CIRCUMSTANCES (PHYS. OR EMOT. AND/OR TIME) IMPEDE MEMORY \_  
 POLICE WITNESSES EVIDENCE, IDENTIFY AND SUMMARIZE TESTIMONY:  
 \*\*SEE CODE BOOK PAGE 4B\*\*

POLICE WITNESS 1  
 CMVAR69A --  
 CMVAR69B --  
 CMVAR69C --  
 CMVAR69D --  
 CMVAR69E --

POLICE WITNESS 2  
 CMVAR70A --  
 CMVAR70B --  
 CMVAR70C --  
 CMVAR70D --



CROSS EXAMINATION OF POLICE

CMVAR71A VICTIM'S SOBRIETY (YES ... 1 NO ... 2 NA ... 7)	-
CMVAR71B ACCUSED'S SOBRIETY	-
CMVAR71C NATURE OF INJURIES	-
CMVAR71D VICTIM'S BEHAVIOUR	-
CMVAR71E DEFENDENT'S BEHAVIOUR	-
CMVAR71F CONDITION OF SITE	-
CMVAR72 CROWN'S THIRD PARTY WITNESS(ES) 1   **SEE CODE BOOK PAGE 4C **	-
CMVAR73A TESTIMONY 1   **SEE CODE BOOK PAGE 5A **	- -
CMVAR73B TESTIMONY 2	- -
CMVAR73C TESTIMONY 3	- -
CMVAR74 CROWN'S WITNESS 2	- -
CMVAR75 TESTIMONY 1	- -
CMVAR76 CROWN'S WITNESS 3	- -
CMVAR77 TESTIMONY 1	- -
CMVAR78 CROWN'S WITNESS 4	- -
CMVAR79 TESTIMONY 1	- -
CMVAR80 DID THE DEFENDANT MAKE A STATEMENT WHICH THE CROWN SOUGHT TO INTRODUCE AS EVIDENCE?	-
YES .....	1
NO .....	2
NO INFORMATION .....	9
CMVAR81 IF YES TO CMVAR80, TO WHOM WAS THE STATEMENT MADE?	-
POLICE .....	1
OTHER (SPECIFY) _____	2
NOT APPLICABLE .....	7
CMVAR82 IF YES TO CMVAR81, WAS THE STATEMENT ALLOWED IN?	-
YES .....	1
NO .....	2
NOT APPLICABLE .....	7
<u>DEFENCE'S CASE</u>	
CMVAR83 DID THE DEFENCE CALL WITNESSES?	-
YES .....	1
NO .....	2
CMVAR84 IF YES TO CMVAR83, DID THE DEFENDANT TESTIFY?	-
YES .....	1
NO .....	2
NOT APPLICABLE .....	7
<u>TESTIMONY FOR DEFENCE (ACCUSED)</u>	
**SEE CODE BOOK PAGE 5B**	
CMVAR85A TESTIMONY 1	- -
CMVAR85B TESTIMONY 2	- -
CMVAR85C TESTIMONY 3	- -
CMVAR85D TESTIMONY 4	- -

CROSS EXAMINATION OF ACCUSED

CMVAR86A USE OF ALCOHOL/DRUGS? (YES ... 1 NO ... 2 NA ... 7) \_
CMVAR86B EXTENT OF FORCE USED? \_
CMVAR86C ACCUSED'S EMOTIONAL STATE? \_
CMVAR86D PREVIOUS ASSAULTS? \_

TESTIMONY FOR DEFENCE (THIRD PARTY)

CMVAR87 DEFENCE WITNESS 1 \*\*SEE CODE BOOK PAGE 4C \*\* --
CMVAR88A TESTIMONY 1 \*\*SEE CODE BOOK PAGE 5C\*\* --
CMVAR88B TESTIMONY 2 --
CMVAR88C TESTIMONY 3 --
CMVAR89 DEFENCE WITNESS 2 --
CMVAR90 TESTIMONY 1 --
CMVAR91 DEFENCE WITNESS 3 --
CMVAR92 TESTIMONY 1 --
CMVAR93 DEFENCE WITNESS 4 --
CMVAR94 TESTIMONY 1 --

APPLICABLE FOR BOTH TRIAL AND GUILTY PLEAS

CLOSING ARGUMENTS (FOR GUILTY PLEAS SPEAK TO SENTENCE) BRIEFLY SUMMARIZE:

DEFENCE SUMMATION \*\*SEE CODE BOOK PAGE 6A\*\*

CMVAR95A --
CMVAR95B --
CMVAR95C --
CMVAR95D --

CROWN SUMMATION \*\*SEE CODE BOOK PAGE 6B\*\*

CMVAR96A --
CMVAR96B --
CMVAR96C --
CMVAR96D --

VERDICT

CMVAR97 IF A PRELIMINARY:
COMMITTED TO TRIAL ..... 1 -
DISCHARGED ..... 2
NOT APPLICABLE ..... 7
CMVAR98 IF A TRIAL:
GUILTY ..... 3 -
NOT GUILTY ..... 4
GUILTY OF A LESSER OFFENCE ..... 5
OTHER (SPECIFY) ..... 6
CMVAR99 DID ACCUSED HAVE A PRIOR RECORD? (YES ... 1 NO ... 2) \_
CMVAR100 IF YES TO CMVAR99, DID THE RECORD INCLUDE ASSAULT? \_
CMVAR101 IF YES TO CMVAR101, DID RECORD INCLUDE CHILD ABUSE? \_
CMVAR102 WERE REPORTS REQUESTED ?
YES ..... 1 -
NO ..... 2
NO INFORMATION ..... 9

IF YES TO CMVAR102, WHAT KIND OF REPORTS? \*SEE CODE BOOK PAGE 6C \*\*

CMVAR103A REPORT 1 -  
 CMVAR103B REPORT 2 -  
 CMVAR103C REPORT 3 -

NATURE OF THE REPORT

CMVAR104 ASSESSMENT OF DANGER TO VICTIM -  
 CMVAR105 ASSESSMENT OF DAMAGE TO VICTIM -  
 CMVAR106 POTENTIAL FOR REHABILITATION -

1	2	3	4	5
VERY LOW	LOW	MEDIUM	HIGH	VERY HIGH

CROWN'S RECOMMENDATION RE: SENTENCE \*\*SEE CODE BOOK PAGE 6D\*\*

CMVAR107A RECOMMENDATION 1 --  
 CMVAR107B RECOMMENDATION 2 --  
 CMVAR107C RECOMMENDATION 3 --

CONDITIONS: \*\*SEE CODE BOOK PAGE 7C\*\*

CMVAR108A CONDITIONS 1 --  
 CMVAR108B CONDITIONS 2 --  
 CMVAR108C CONDITIONS 3 --  
 CMVAR109 IF PROBATION SPECIFY LENGTH IN MONTHS --  
 CMVAR110 IF INCARCERATION SPECIFY LENGTH IN MONTHS --

DEFENCE RECOMMENDATION RE: SENTENCE \*\*SEE CODE BOOK PAGE 6D \*\*

CMVAR111A RECOMMENDATION 1 --  
 CMVAR111B RECOMMENDATION 2 --  
 CMVAR111C RECOMMENDATION 3 --

CONDITIONS \*\*SEE CODE BOOK PAGE 7A\*\*

CMVAR112A CONDITIONS 1 --  
 CMVAR112B CONDITIONS 2 --  
 CMVAR112C CONDITIONS 3 --  
 CMVAR113 IF PROBATION SPECIFY LENGTH IN MONTHS --  
 CMVAR114 IF INCARCERATION SPECIFY LENGTH IN MONTHS --

JUDGE'S REMARKS \*\*SEE CODE BOOK PAGE 7A\*

CMVAR115A --  
 CMVAR115B --  
 CMVAR115C --  
 CMVAR115D --

FINAL DISPOSITION

CMVAR116 DATE OF FINAL DISPOSITION -----  
CMVAR117 SENTENCING JUDGE \*\*SEE CODE BOOK PAGE 7B\*\* -- --  
CMVAR118 CHARGE 1: \*\*SEE CODE BOOK PAGE 1 \*\* -- --  
CMVAR119A DISPOSITION1 CHARGE1 \*\*SEE CODE BOOK PAGE 6D \*\* -- --  
CMVAR119B DISPOSITION2 CHARGE1 -- --  
CMVAR119C DISPOSITION3 CHARGE1 -- --  
CONDITIONS: \*\*SEE CODE BOOK PAGE 7C\*\*  
CMVAR120A CONDITION 1 -- --  
CMVAR120B CONDITION 2 -- --  
CMVAR120C CONDITION 3 -- --  
CMVAR121 IF FINE/RESTITUTION SPECIFY AMOUNT -- -- --  
CMVAR122 IF PROBATION SPECIFY LENGTH IN MONTHS -- --  
CMVAR123 IF INCARCERATION SPECIFY LENGTH IN MONTHS -- -- --  
CMVAR124 CHARGE 2: \*\*SEE CODE BOOK PAGE 1 \*\* -- --  
CMVAR125A DISPOSITION1 CHARGE2 \*\*SEE CODE BOOK PAGE 6D \*\* -- --  
CMVAR125B DISPOSITION2 CHARGE2 -- --  
CMVAR125C DISPOSITION3 CHARGE2 -- --  
CONDITIONS: \*\*SEE CODE BOOK PAGE 7C \*\*  
CMVAR126A CONDITION 1 -- --  
CMVAR126B CONDITION 2 -- --  
CMVAR126C CONDITION 3 -- --  
CMVAR127 IF FINE/RESTITUTION SPECIFY AMOUNT -- -- --  
CMVAR128 IF PROBATION SPECIFY LENGTH IN MONTHS -- -- --  
CMVAR129 IF INCARCERATION SPECIFY LENGTH IN MONTHS -- -- --  
CMVAR130 CHARGE 3: \*\*SEE CODE BOOK PAGE 1 \*\* -- --  
CMVAR131A DISPOSITION1 CHARGE3 \*\*SEE CODE BOOK PAGE 6D \*\* -- --  
CMVAR131B DISPOSITION2 CHARGE3 -- --  
CMVAR131C DISPOSITION3 CHARGE3 -- --  
CONDITIONS: \*\*SEE CODE BOOK PAGE 7C\*\*  
CMVAR132A CONDITION 1 -- --  
CMVAR132B CONDITION 2 -- --  
CMVAR132C CONDITION 3 -- --  
CMVAR133 IF FINE/RESTITUTION SPECIFY AMOUNT -- -- --  
CMVAR134 IF PROBATION SPECIFY LENGTH IN MONTHS -- -- --  
CMVAR135 IF INCARCERATION SPECIFY LENGTH IN MONTHS -- -- --

CMVAR 136 IS SENTENCE IS BEING SERVED CONCURRENTLY  
YES ..... 1  
NO ..... 2  
NO INFORMATION ..... 9

**MONITORING CODE BOOK  
FAMILY VIOLENCE COURT  
CHILD ABUSE  
FEBRUARY 5, 1992**

CHARGE CODE

MURDER .....	11
ATTEMPTED MURDER .....	12
MANSLAUGHTER .....	13
ASSAULT WITH A WEAPON .....	14
AGGRAVATED ASSAULT .....	15
ASSAULT CAUSING BODILY HARM .....	16
COMMON ASSAULT/ASSAULT .....	17
SEXUAL ASSAULT .....	18
SEXUAL ASSAULT THREATS/BODILY HARM/WEAPON ...	19
AGGRAVATED SEXUAL ASSAULT .....	20
UNLAWFUL/FORCIBLE CONFINEMENT .....	21
BREAK AND ENTER .....	22
ATTEMPTED BREAK & ENTER .....	23
UNLAWFULLY IN A DWELLING .....	24
UTTERING THREATS .....	25
POSS. WEAPON DANGEROUS TO PUBLIC PEACE .....	26
BREACH OF RECOGNIZANCE .....	27
BREACH OF PROBATION .....	28
BREACH OF COURT ORDER/PEACE BOND .....	29
MISCHIEF .....	30
ABDUCTION .....	31
CAUSING DISTURBANCE .....	32
HARASSING/ANNOYING PHONE CALLS .....	33
HOUSEBREAK ENTER W/INTENT .....	34
SEXUAL INTERFERENCE .....	35
POINTING A FIREARM .....	36
INVITATION TO SEXUAL TOUCHING .....	37
POSSESSION OF PROHIBITED WEAPON .....	38
SEXUAL EXPLOITATION .....	39
FMA .....	40
HTA .....	41
INDECENT ASSAULT .....	42
CHOKING TO OVERCOME.....	43
GROSS INDECENCY .....	44
INCEST .....	45
ASSAULTING A POLICE OFFICER .....	46
FORCIBLE ENTRY .....	47
ANAL INTERCOURSE .....	48
BESTIALITY .....	49
OTHER .....	50
BUGGERY .....	51
NO INFORMATION .....	99

2A. RELATIONSHIP CODE

NATURAL CHILD .....	01
STEP CHILD .....	02
FRIEND .....	03
ACQUAINTANCE .....	04
STRANGER .....	05
CAREGIVER .....	06
UNCLE/AUNT .....	07
GRANDPARENT .....	08
OTHER .....	09
BROTHER/SISTER .....	10
DATING RELATIONSHIP .....	11
NO INFORMATION .....	99

2B. MULTIPLE VICTIM/SUSPECT RELATIONAL CODE

ALL FAMILY MEMBERS .....	1
VICTIMS FAMILY AND THIRD PARTY .....	2
SUSPECTS FAMILY AND THIRD PARTY .....	3
THIRD PARTY ONLY .....	4

2C. OFFENCE REPORTED BY

VICTIM .....	01
FRIEND .....	02
PARENT .....	03
OTHER RELATIVE (SPECIFY) _____	04
TEACHER .....	05
CHILD CARE (DAY CARE) .....	06
SOCIAL WORKER .....	07
CAREGIVER .....	08
MEDICAL PERSONNEL.....	09
OTHER (SPECIFY) _____	10
NOT APPLICABLE .....	77
NO INFORMATION .....	99

2D. EMPLOYMENT CODE

EMPLOYED - PROFESSIONAL .....	01
EMPLOYED - SKILLED/SEMI-SKILLED .....	02
EMPLOYED - UNSKILLED .....	03
EMPLOYED - OTHER (SPECIFY) _____	04
HOMEMAKER .....	05
STUDENT .....	06
UNEMPLOYED .....	07
DEPENDENT .....	08
RETIRED .....	09
OTHER (SPECIFY) _____	10
NO INFORMATION .....	99

3A. RACE CODE

CANADIAN CAUCASIAN (EUROPEAN BACKGROUND).....	1
NATIVE .....	2
BLACK .....	3
ORIENTAL .....	4
EAST INDIAN .....	5
PHILLIPINE .....	6
CENTRAL/SOUTH AMERICA .....	7
OTHER NEW CANADIAN .....	8
NO INFO .....	9



3B. DISABILITY CODE

VISUALLY IMPAIRED.....	01
HEARING IMPAIRED .....	02
COGNITIVELY IMPAIRED .....	03
PHYSICALLY IMPAIRED .....	04
SPEECH IMPEDIMENT .....	05
MENTALLY ILL.....	06
OTHER .....	07
NO INFORMATION .....	99

3C. INJURY CODE

MINOR CUTS/BRUISES .....	01
MAJOR CUTS/BRUISES .....	02
BITES .....	03
BROKEN BONES/TEETH .....	04
BLACK EYE .....	05
STITCHES REQUIRED .....	06
MISCARRIAGE .....	07
BUMPS TO HEAD/NOT VISIBLE .....	08
ATTEMPT SUICIDE .....	09
EMOTIONAL STRESS/BREAKDOWN.....	10
BURNS TO THE BODY .....	11
MULTIPLE PERSONALITY DISORDER .....	12
DAMAGE GENITALS .....	13
DAMAGE TO REPRODUCTIVE ORGANS .....	14
PREGNANCY .....	15
OTHER .....	16
NO INFORMATION .....	99

3D. STAYED CODE

VICTIM REFUSED TO TESTIFY .....	01
VICTIM RETRACTS/RECANTS. ....	02
FAILED TO ATTEND COURT .....	03
ACCUSED SOUGHT COUNSELLING .....	04
INSUFFICIENT EVIDENCE .....	05
VICTIM NOT SERVED .....	06
VICTIM UNABLE TO SWEAR OATH .....	07
VICTIM CONFUSED .....	08
VICTIM PROVOKED .....	09
VICTIM NOT CREDIBLE .....	10
VICTIM UNABLE TO TESTIFY .....	11
OTHER (SPECIFY) .....	12
NO INFORMATION .....	99

4A. TESTIMONY FOR CROWN (VICTIM)

USE OF VIDEO TAPE ALONE .....	01
VIDEO TAPE AND IN PERSON TESTIMONY .....	02
IN PERSON TESTIMONY ALONE .....	03
GAVE ACCOUNT OF INCIDENT .....	04
CAN DISTINGUISH "GOOD AND BAD TOUCH" .....	05
CAN DISTINGUISH "TRUTH AND LIE" .....	06
NO ONE TOLD VICTIM WHAT TO SAY .....	07
CHILD DESCRIBED MORE THAN ONE INCIDENT .....	08
CHILD WAS TOLD NOT TO TELL ANYONE .....	09
CHILD IDENTIFIES ACCUSED .....	10
CHILD IS CONFUSED ABOUT INCIDENT .....	11
CHILD RECANTS .....	12
OTHER .....	13
NOT APPLICABLE .....	77
NO INFORMATION .....	99

4B. TESTIMONY FOR CROWN (POLICE)

PROPER PROTOCOL FOR VIDEOTAPING .....	01
---------------------------------------	----

RECENCY OF VIDEOTAPE .....	02
CHALLENGE TO CONSITUTIONALITY OF VIDEOTAPE ..	03
NOTICED INJURIES ON VICTIM .....	04
DID NOT NOTICE INJURIES ON VICTIM .....	05
SPOKE TO VICTIM .....	06
SPOKE TO ACCUSED .....	07
SPOKE TO BOTH VICTIM AND ACCUSED .....	08
SPOKE TO OTHER .....	09
ACCUSED COOPERATIVE .....	10
ACCUSED NON-COOPERATIVE .....	11
CORROBORATED PREVIOUS POLICE TESTIMONY .....	12
WEAPON USED .....	13
WEAPON THREATENED .....	14
WEAPON SEIZED .....	15
VOIR DIRE CHALLENGED BY DEFENCE .....	16
VOIR DIRE NOT CHALLENGED BY DEFENCE .....	17
OTHER .....	18
NO INFORMATION .....	99

4C. CROWN'S OTHER WITNESSES (EXCLUDING VICTIM)

PARENT/GUARDIAN .....	01
CHILD(REN).....	02
CHILD ABUSE UNIT .....	03
SOCIAL WORKER .....	04
MEDICAL DOCTOR .....	05
FORENSIC .....	06
WITNESS .....	07
OTHER (SPECIFY) .....	08
CHILD'S FRIEND (BOY/GIRLFRIEND).....	09

5A. TESTIMONY FOR CROWN (THIRD PARTY)

ATTENTION TO EXTENT OF VICTIM'S INJURIES ....	01
EXTENT OF PHYSICAL FORCE USED .....	02
EMOTIONAL STRESS/BREAKDOWN .....	03
ATTEMPTS SUICIDE .....	04
EVIDENCE OF PENETRATION .....	05
DAMAGE TO GENITALS .....	06
DAMAGE TO REPRODUCTIVE ORGANS .....	07
PREGNANCY .....	08
CREDIBILITY OF VICTIM'S ACCOUNTS .....	09
CORROBORATION OF VICTIM'S TESTIMONY .....	10
VICTIM'S EMOTIONAL STRESS .....	11
INTIMIDATION OF VICTIM BY DEFENDANT.....	12
CORROBORATION OF PREVIOUS WITNESSES .....	13
WEAPON USED .....	14
WEAPON THREATENED .....	15
OTHER .....	16
NOT APPLICABLE .....	77

5B. TESTIMONY FOR DEFENCE (ACCUSED)

DENIAL OF CIRCUMSTANCES .....	01
PROVOCATION BY VICTIM .....	02
CONSENSUAL ACT .....	03
USE OF DRUGS/ALCOHOL .....	04
VICTIM MISINTERPRETED INTENT .....	05
ATTEMPT TO DISCREDIT VICTIM .....	06
STRESS DUE TO UNEMPLOYMENT .....	07
GENERALIZED STRESS .....	08
VICTIMIZATION OF ACCUSED .....	09
BOTH BECAME VIOLENT .....	10
OTHER .....	11
NOT APPLICABLE .....	77
NO INFORMATION .....	99

5C. TESTIMONY FOR DEFENCE (THIRD PARTY)	
DENIAL OF CIRCUMSTANCES .....	01
ATTEMPT TO DISCREDIT VICTIM .....	02
ACCUSED OF GOOD CHARACTER .....	03
GOOD PROVIDER .....	04
GOOD PARENT .....	05
ACCUSED VICTIMIZED IN PAST .....	06
STRESS-INDUCED .....	07
CORROBORATES PREVIOUS TESTIMONY .....	08
PROVOCATION BY VICTIM .....	09
BOTH BECAME VIOLENT .....	10
USE OF DRUGS/ALCOHOL .....	11
OTHER .....	12
NOT APPLICABLE .....	77
NO INFORMATION .....	99
6A. DEFENCE SUMMATION	
QUESTIONS CREDIBILITY OF VICTIM .....	01
PARENT-MANUFACTURED TO DENY ACCESS .....	02
ALTERNATIVE EXPLANATION OF INJURY/ACT.....	03
ATTENTION TO DEFENDANT'S CHARACTER .....	04
GOOD PROVIDER .....	05
GOOD PARENT .....	06
VICTIM PROVOKED .....	07
SPEAKS TO LACK OF CRIMINAL RECORD .....	08
FIRST INCIDENT OF THIS NATURE REPORTED .....	09
CALLS ATTENTION TO CONSENSUAL FIGHT .....	10
ACTING IN SELF-DEFENCE .....	11
COUNSELLING IN PROGRESS .....	12
NO HARM INTENDED BY DEFENDANT .....	13
NEED TO SUSTAIN EMPLOYMENT .....	14
ACCUSED PHYSICALLY/SEXUALLY ABUSED AS CHILD .	15
ACCUSED ACCEPTS RESPONSIBILITY FOR ACTIONS ..	16
OTHER .....	17
ASKING FOR NO COMMITAL (LACK OF EVIDENCE)....	18
THOUGHT CHILD WAS OF AGE .....	19
INCONSISTANCIES OF VICTIM'S TESTIMONY.....	20
FABRICATION OR DREAM .....	21
6B. CROWN'S SUMMATION	
ATTENTION TO EXTENT OF VICTIM'S INJURIES ....	01
VICTIM PREGNANT .....	02
VICTIM'S EMOTIONAL STRESS .....	03
EXTENT OF PHYSICAL FORCE USED .....	04
ATTACK ON DEFENDANT'S CREDIBILITY .....	05
CREDIBILITY OF VICTIM'S TESTIMONY .....	06
CORROBORATION OF VICTIM'S TESTIMONY .....	07
INTIMIDATION OF VICTIM BY DEFENDANT.....	08
INVOKES CHILD PROTECTION UNIT REPORT .....	09
ACCUSED TOOK ADVANTAGE OF YOUTH .....	10
OTHER .....	11
ASKING FOR COMMITAL .....	12
NOT ASKING FOR A COMMITAL .....	13
GENERAL DETERRENCE .....	14
PRIOR RECORD OF CONCERN .....	15
VIOLATED RELATIONSHIP OF TRUST .....	16
EXPLANATION FOR INCONSISTENCIES .....	17
DID NOT SUFFICIENTLY DETERMINE AGE .....	18
6C. REPORTS REQUESTED CODE	
PRESENTENCE REPORT .....	1
PSYCHIATRIC/PSYCHOLOGICAL .....	2
CHILD PROTECTION UNIT... ..	3
MEDICAL REPORT .....	4

CHILD AND FAMILY SERVICE AGENCY .....	5
OTHER .....	6
NOT APPLICABLE .....	7

6D. FINAL DISPOSITION

ACQUITTAL .....	01
ABSOLUTE DISCHARGE .....	02
CONDITIONAL DISCHARGE .....	03
SUSPENDED SENTENCE .....	04
PROBATION (SUPERVISED).....	05
FINE .....	06
INCARCERATION .....	07
PEACE BOND .....	08
UP TO JUDGE'S DISCRETION .....	09
OTHER .....	10
INTERMITTENT SENTENCE .....	11
COMMUNITY SERVICE ORDER .....	12
TIME IN CUSTODY .....	13
PROBATION UNSUPERVISED .....	14

7A. JUDGE'S REMARKS

CREDIBILITY OF VICTIM .....	01
CREDIBILITY OF DEFENDANT .....	02
BOTH CREDIBLE WITNESSES .....	03
INAPPROPRIATE USE OF FORCE .....	04
POTENTIAL FOR FURTHER ABUSE .....	05
CONCERN ABOUT VICTIM .....	06
OFFENCE OCCURRED .....	07
CROWN SHOWED BEYOND REASONABLE DOUBT .....	08
CROWN DID NOT SHOW BEYOND REASONABLE DOUBT ..	09
CONCERNED WITH PRIOR RELATED RECORD .....	10
VIOLATION OF TRUST .....	11
NEED FOR GENERAL DETERRENCE .....	12
OTHER .....	13
NEED TO PROVIDE REHABILITATION .....	14
TAKES THE GP INTO ACCOUNT .....	15
REMORSE SHOWN .....	16
AGGRAVATING (OUT WEIGH MIT) .....	17
MITIGATING (OUT WEIGH AGG).....	18
SPECIFIC DETERRENCE .....	19

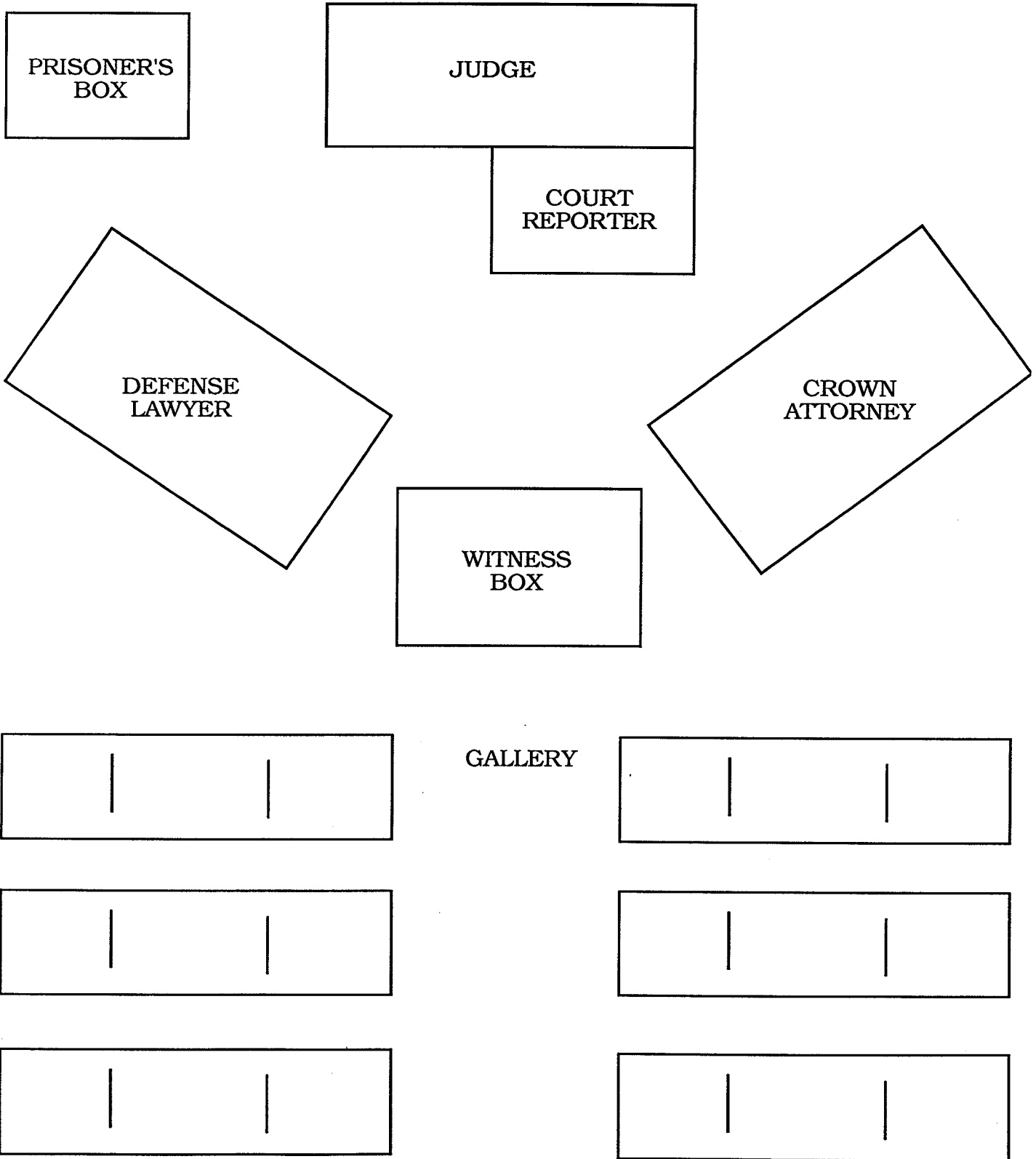
7B. SENTENCING JUDGE	
MYERS .....	01
DEVINE .....	02
KOPSTEIN .....	03
COLLERMAN .....	04
MITCHELL .....	05
GARFINKEL .....	06
GUY .....	07
KRAMER .....	08
KIMMELMAN .....	09
CONNOR .....	10
ALLEN .....	11
DUVAL .....	12
GIESBRECHT .....	13
SWAIL .....	14
RUBIN .....	15
HARRIS .....	16
MORLOCK .....	17
WEBSTER .....	18
GYLES .....	19
QB JUDGE .....	20
SINCLAIR .....	21
NEWCOMBE .....	22
ENNES .....	23
MINUK .....	24
OTHER .....	25
LISMAR .....	26

7C. IF PROBATION, CONDITIONS

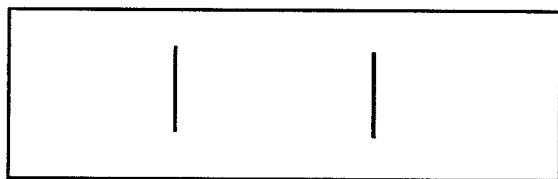
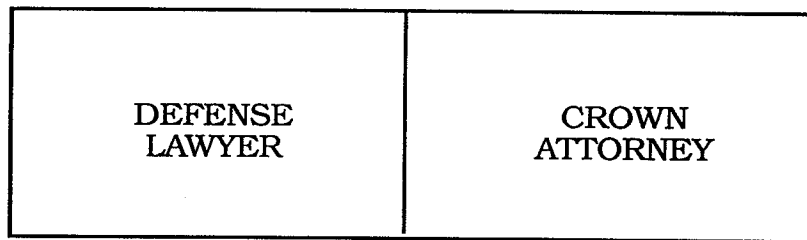
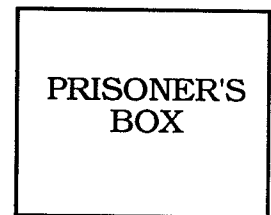
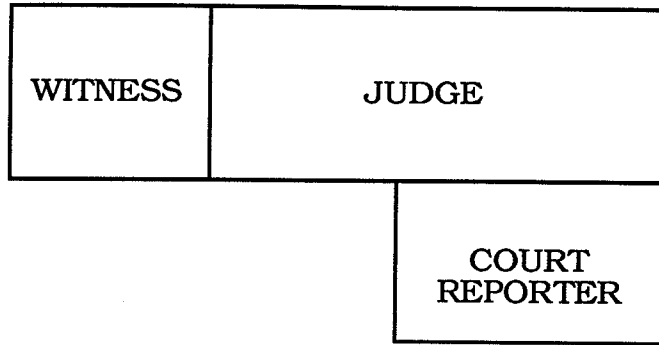
PARENTING COUNSELLING .....	02
ATTEND ABUSE GROUP .....	03
ABSTAIN FROM ALCOHOL .....	04
ATTEND SUBSTANCE ABUSE TREATMENT .....	05
OTHER TREATMENT .....	06
NO CONTACT .....	07
CONTACT BY PHONE ONLY .....	08
CONTACT ONLY FOR ACCESS TO CHILD(REN) .....	09
ABSTAIN FROM POSSESSING/CARRYING WEAPON .....	10
REMAIN IN JURISDICTION .....	11
CONDITIONS AS COURT ORDERED .....	12
SEX OFFENDER TREATMENT .....	13
NO CONTACT W/CHILDREN <18 .....	14
OTHER CONDITIONS .....	15
RESTITUTION .....	16
NOT APPLICABLE .....	77
NO INFORMATION .....	99

**APPENDIX C**  
Courtroom Diagrams

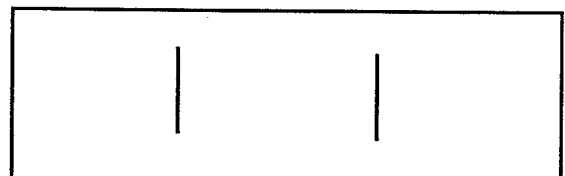
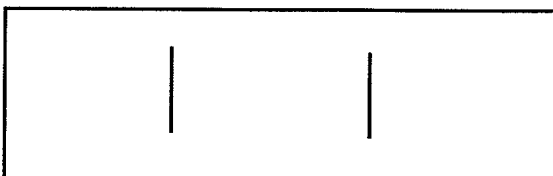
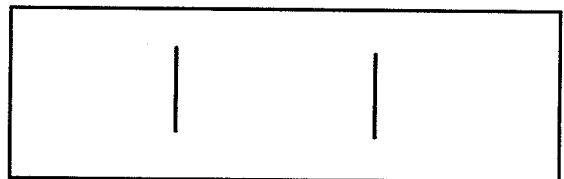
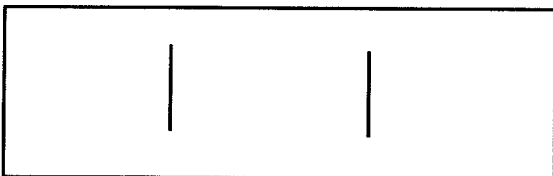
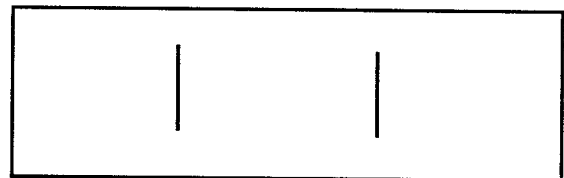
**DIAGRAM A**  
**Typical F.V.C. Courtroom**



**DIAGRAM B**  
**Typical Q.B Courtroom**



GALLERY





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