Crown Counsels and Therapists:
A Work Relationship and Its Influence on the Child Witness

by

Judith Margaret Marshall
B.A., University of Victoria, 1991

A Thesis Submitted in Partial Fulfilment of the Requirements for the Degree of

MASTER OF ARTS

in the Department of Human and Social Development

We accept this thesis as conforming
to the required standard

[redacted]

Dr. D. Rutman, Supervisor (Faculty of Human and Social Development)

[redacted]

Dr. M. Prince, Department Member (Faculty of Human and Social Development)

[redacted]

Prof. J. Anglin, Department Member (School of Child and Youth Care)

[redacted]

Dr. L. Shields, Outside Member (School of Nursing)

[redacted]

Dr. A. Oberg, External Examiner (Department of Communications
and Social Foundations)

University of Victoria

Supervisor: Dr. Deborah Rutman

Abstract

Child witnessing is a current phenomenon, resulting from the recent recognition of the child as a credible witness and often the only witness to his or her own sexual abuse. The problem of meeting the special needs of these child witnesses pervades practice and policy realms, as well as the everyday life of the child and family. A call for interdisciplinary relations has emerged concerning child sexual abuse in general and court process in particular. Interdisciplinary relationship is a necessary means to meet the concerns of legal and psychological/social perspectives in criminal cases involving children as witnesses. Informed by an actual legal case and looking at the perspective of front-line practice, this study enabled an understanding of the work relationship between two Crown Counsels and two therapeutic practitioners. The study posed the following research questions: 1) Within the context of a single court case of alleged child sexual assault, how do the Crown Counsels and the therapeutic practitioners perceive their work relationship? 2) What are the Crown Counsels', the therapeutic practitioners', and the child's parents' perceptions of the influences of this work relationship on the child witness?

Informed by case study methods, a qualitative methodology was used to produce descriptive data—from interviews with the study participants and from observation of the legal trial. In addition, relevant documents were accessed. Four themes emerged from the interviews with the two Crown Counsels and the two therapists which described their perceptions of their work relationship: 1) The Crown Counsels and the therapists mutually respected and recognized each other's expertise and responsibilities;

2) knowledge was exchanged through the work relationship and its legal context; 3) the Crown Counsels and the therapists perceived the impact of their work relationship in professional and personal terms; 4) the attributes of the relationship were generally positive, with a mutual appreciation of the therapists' frustration with the legal context.

Three themes described the Crown Counsels' and the therapists' perceptions of the influence of their work relationship on the child witness: 1)The workers felt that the needs of each child and family were recognized and communicated within the work relationship; 2) the work relationship aided accommodation for the child in the courtroom; 3) the Crown Counsels and the therapists found the child's therapy was limited, constrained by the legal context of the work relationship. Parents also described their own child's and family's experience with the court processes and therapy. Parents felt that each child was unique: Each child experienced his or her own fears and anxieties related to the accused and to legal processes; courtroom accommodations for each child were a mixed blessing, seen as helpful but at the same time, difficult; parents had different feelings from one another regarding each child's therapeutic involvement.

Supported by the current literature, the findings were compared to the concepts that guided the study: "the best interests of the child", "the parameters of therapeutic support", and "descriptors of relationship". Implications for policy and practice were revealed, as well as areas for future research development.

Examiners:

[redacted]

Dr. D. Rutman, Supervisor (Faculty of Human and Social Development)

[redacted]

Dr. M. Prince, Department Member (Faculty of Human and Social Development)

[redacted]

Prof. J. Anglin, Department Member (School of Child and Youth Care)

[redacted]

Dr. L. Shields, Outside Member (School of Nursing)

[redacted]

Dr. A. Oberg, External Examiner (Department of Communications and Social Foundations)

Table of Contents

Introduction

Statement of the problem

Child sexual abuse is a criminal offence, and many children are testifying to their abuse in Canadian courts. In this report I will be referring to these children as child witnesses. The experience of legal processes is traumatic for children who have already been traumatized by sexual abuse. Factors that produce additional system-induced trauma to already traumatized and vulnerable children were identified by the *Four year review of the child sexual abuse provisions of the Criminal Code and Canada Evidence Act (Formerly Bill C-15)*, (Horner, 1993). Aspects of the court process that contribute to the stress and anxiety of the child witness include long delays between disclosure and trial, inadequate victim-witness preparation, lack of professional expertise to deal with complexities of child sexual abuse cases, lack of continuity of Crown Counsel between preliminary hearing and trial, courtroom devoid of child-friendly atmosphere, and intimidation by Defence Counsel.

While the primary focus of the court process calls for prosecution which does not abrogate the rights of the accused, the legal system is attempting to address the issue of system-induced trauma to child witnesses through accommodations which recognize their special needs. Efforts to address these special needs through legal and administrative reforms (Horner, 1993) attempt to accommodate these needs and to facilitate prosecution while ensuring the accused's right to a fair trial. The child's story is crucial evidence: Because the child is often the only witness to the abuse, addressing the stress of the child should promote reliable evidence and discovery of truth (Myers, 1992).

Policy has focused on how to make legal processes accommodate the use of child witnesses for successful prosecution. Policy makers have supported the use of children in the court process based on the assumption that goals related to having a child testify are agreed upon and understood. The *Four year review of the child sexual abuse provisions of the Criminal Code and Canada Evidence Act* (*Formerly Bill C-15*), (Horner, 1993), states that there are compelling reasons for involving children in the criminal process: a) child sexual abuse is against the law and a contributing factor in adult criminal activity, and, b) a prison sentence is necessary to get offenders into treatment. While the criminal justice system can appear as *both* protector of the child and perpetrator of further systemic abuse and victimization of the child (Ginkowski, 1986), Horner's report (1993) notes "that the state, the criminal justice system, and the community clearly have an overriding interest" (p. 18) in apprehension and prosecution of offenders.

Melton and Limber (1989), acknowledging the increased involvement of psychologists and other mental health professionals in child sexual abuse cases, caution these practitioners to avoid intrusions on the due process of rights of defendants, while being sensitive to the interests of victims. Melton and Limber (1989) further comment:

> Specifically, psychologists and others involved in work with child victims should seek to increase victims' satisfaction with the legal process and, in so doing, enhance their sense of personal dignity. In that regard, the general strategy should be to make children partners in the pursuit of justice. (p. 1227)

To "seek to increase victims' satisfaction with the legal process" and "enhance their sense of personal dignity", it is necessary to establish a relationship between the legal process and the persons (child and family) affected by the process. This relationship is embedded in the work of the Crown Counsel and the therapeutic practitioner. The role of

the therapeutic practitioner is to assess and address the therapeutic needs of the individual child. A work relationship between the Crown Counsel and the therapeutic practitioner should require the therapist's awareness of the legal context and the parameters it might place on the therapy format.

Conte (1984) reflected the need for health and social service practitioners to play an active role in monitoring court process:

> The continued monitoring of the management of sexual abuse cases by law enforcement and justice system personnel is a necessary and inherent responsibility of mental health and social service professionals. (p. 567)

Conte (1984) further warned against the withdrawal of health and social service practitioners from the court component in child sexual abuse cases:

> Concomitantly, by ignoring or shunning the use of the justice system in these cases, social service and mental health services lose a potentially useful component in dealing with cases of sexually abused children. (p. 567)

Our society is committed to charging and prosecuting alleged offenders while recognizing the rights of the accused, and the need for protection of vulnerable children. Policy commitment should be one of fairness, conscience, and a sense of justice, recognizing skilled persons in the court system, in the community of services to sexually abused children, and in the general public (Pal, 1992). Implementation of policy requires combinations of resources reflected in partnership of government levels, court system practitioners, and community advocates.

The problem of meeting the needs of child witnesses pervades practice and policy realms, as well as the everyday life of the child and family. The personal experience of the abuse and court processes is invisible in policy documentation focused on successful prosecution. Families often turn to counsellors, therapists, and psychologists for support

and therapy. Ron Ensom of the Child Protection Program, Children's Hospital of Eastern Ontario, spoke to the Four Year Review Committee (Horner, 1993) of parents' experience with the court system:

> The vast majority of parents in our study whose cases had been adjudicated reported a very poor experience with court. Most of these parents said they would not report another abuse of their child knowing what they know now. (p. 18)

Research on the Child Witness Project in London, Ontario, found child witnesses benefit from court preparation by receiving help to deal with their stress and anxieties related to the abuse and to testifying (Sas, 1991). However, few jurisdictions in Canada have specialized victim-witness court preparation programs for child witnesses. In some cases, victim-witness preparation by Crown Counsel alone amounts to a day or two prior to the court date. Some jurisdictions have victim assistance programs and/or sexual abuse intervention services; these are contracted Ministry services (Attorney General, Social Services, and Health) with an overwhelming demand, high case load, and limited funding. Moreover, isolated communities do not have easy access to support services.

Communities, professions, and schools are affected by child abuse and court prosecution. Teachers, ministers, doctors, and self-help groups give day to day support through the realities experienced by children and families coping with child sexual abuse, criminal investigation, and court process.

Within the court setting, legal practitioners are involved with the process of prosecuting child sexual abuse offenders: Crown Counsel, Defence Counsel, and Judges. Each has a role to play in the efforts to accommodate the needs of the child witness while facilitating prosecution and ensuring the rights of the accused.

Canadians look to the federal government to provide a national leadership role and

to focus public attention on the issue of child abuse and criminal court process through legislation and review. Federal involvement includes the *Child sexual abuse initiative* (Canada, 1994), *enactment of Bill C-15* (Canada, 1988), *Family violence initiative* (Canada, 1994) and the *Four year review of the Former Bill C-15* (Horner, 1993).

It is against this background that the present study described and explored a work relationship between the Crown Counsels and the therapeutic practitioners within the context of a single legal case of alleged child sexual assault in one B.C. community.

Significance of the study

Renee Fredrickson (1982) linked the court system and the counselling system in his presentation at the *Symposium on Sexual Abuse of Children*:

> In successful treatment of incest, the court system and the counselling system must work together on a problem that is both a crime against children and a sickness requiring treatment. (p. 12)

Notes prepared by Crown Counsel Wendy Harvey (1992), specialist in child sexual abuse with the British Columbia Ministry of the Attorney General, state:

> In order to break the cycle of manipulation and offending by the strong over the vulnerable, and as long as this is considered the acceptable forum to deal with the child molester, children must be helped in developing coping mechanisms and contingency plans to deal with whatever will be thrown at them during the court process. (p. 5)

Harvey further states that the child's witness position is strengthened when:

> All those in contact with the child have been not only supportive and well-intentioned but also skilled and conscious of contamination issues. The child herself is thoroughly but properly prepared to face the rigors of the criminal process by individuals who understand the system and are not afraid of it. (p. 4)

Harvey concludes that including support persons and caregivers in the preparation encourages the family to share the experience in a positive way. Knowledge of court process alleviates fears and anxiety of the family; in turn, the family and support persons are actively involved in meeting the emotional needs of the child. Support to actively participate in, and to understand court process, may displace the victim stance of the child and family with one of empowerment in the roles they play in the pursuit of justice.

In this study, description of a work relationship between the Crown Counsels and the therapeutic practitioners, within its legal context of court process, enabled an understanding of this experience from the perspective of these front-line workers. That understanding may displace fear or reticence of professional disciplinary relations within legal context, and thereby encourage the combination of multidisciplinary skills. This relationship can potentially encourage purposeful participation of children and families in the court process, and thus contribute to the eradication of a victim posture.

Purpose of the study

The objectives of this study were: 1) to describe the self-perceived work relationship of the Crown Counsels and the therapeutic practitioners, within a court case of alleged child sexual assault in one B.C. community; and 2) to examine the perceived influence of this work relationship on the child witness, from the perspective of the Crown Counsels, the therapeutic practitioners, and the parents of the child.

The study has focused on the relationship of the therapeutic practitioner and the Crown Counsel, which I believe to be a focal point of current changes addressing the special needs of the child witness in balance with legal context (Harvey & Dauns, 1993).

Informed by an actual legal case and the experience of practice, the study provides feedback on this contemporary work experience and its perceived influence on the child witness, a potentially useful education component for legal and therapeutic practitioners.

While policy efforts address the support of the child witness through calls for interagency protocols and manuals suggesting a team approach (Harvey & Dauns, 1993a&b), my focus is on the current front-line practice. Child witnessing is a contemporary event that takes place in any B.C. community, large and small. Each legal case is unique; resources vary. How the Crown Counsels and the therapeutic practitioners in a given community perceive their work relationship is important information to be considered by policy makers who encourage multidisciplinary relations.

Research questions

Informed by an actual legal case and looking at the perspective of practice, this study described the work relationship between the Crown Counsels and the therapeutic practitioners. The study posed the following research questions:

1) Within the context of a single court case of alleged child sexual assault, how do the Crown Counsels and the therapeutic practitioners perceive their work relationship?

2) What are the Crown Counsels', the therapeutic practitioners', and the child's parents' perceptions of the influences of this work relationship on the child witness?

Shaping the choice of a research topic

My interest in the area of child sexual abuse comes from my professional practice

of child and youth care in the counselling of young children through the therapeutic use of art and play. In counselling sexually abused children, I experienced a personal discomfort in the use of children as witnesses in the court process of prosecuting offenders. I came to see the court process as a source of secondary victimization of the children and their families: parents and children struggling with court processes that they did not understand, such as time delays and change of Crown Counsel; parents instructed by legal practitioners to withhold therapy for the child and not to discuss the abuse with the child due to concerns of contamination of evidence; and parents claiming that the system failed them when prosecution was unsuccessful. It was disturbing to find myself wishing to withhold support services to child witnesses because I did not understand, and I felt wary of the court process; I felt powerless to address the needs of the child witness, to balance legal parameters with my own beliefs and ethics about therapeutic treatment. The therapeutic process requires feedback and interaction with the child's thoughts, feelings, and behaviors; in order not to risk contamination of legal processes, I came to view therapy as possible only after court had concluded.

As a result of my own disturbing thoughts and feelings, I made a personal commitment to further pursue knowledge and understanding of the issue of child sexual abuse through studies at the University of Victoria and the Justice Institute of British Columbia, addressing both therapeutic intervention and legal context. From multidisciplinary education and employment practice evolved my present interest, the work relationship between the therapeutic and the legal practitioners. Professional service to children and families recognizes the importance of the individual's perspective. It is

important also to recognize the interactive legal and social systems are striving for balance, by examining the relationship from the perspective of the workers involved in a criminal case of alleged sexual assault against children.

Prior to undertaking the present study, I went into the field to talk about my interest in the area of child witnessing and interdisciplinary relationships. I spoke with Max Uhlemann, Associate Professor in the Department of Psychological Foundations at the University of Victoria and co-author of *A Legal Handbook for the Helping Professional* (Turner & Uhlemann, 1991). I received his encouragement to pursue my thesis area through examination of the work relationship between the Crown Counsel and the therapeutic practitioner. I visited Crown Counsels from two B.C. communities, specifically inquiring about child witness preparation. In a third community, I observed a current case involving a child witness and engaged in further discussion with the Crown Counsel. I arranged a meeting in Vancouver with Wendy Harvey from the Ministry of the Attorney General and co-author of *Sexual offences against children and the criminal process* (Harvey & Dauns, 1993). In 1994, I enrolled in a workshop at the Justice Institute of B.C. entitled "Court Proofing for Practitioners", where I spoke with many professionals from both the therapeutic and the legal systems. I also attended a workshop in 1994 at the University of Victoria, "Stronger Children—Stronger Families", where Wendy Harvey made a presentation on child witnessing.

It was contact with these people and the references they provided to me that encouraged me to develop the present study.

Conceptual framework

The concept of "the best interests of the child" reflects our society's value and concern for the care and safety of children. This concept is shared by both the therapeutic system and the legal system practitioners. In the area of child witnessing, children need protection from the serious crime of child sexual abuse, but individual child witnesses also require alleviation from the system-induced trauma related to the experience of testifying (Sas, 1993). Policy that addresses the accommodation of child witnesses in the court process reflects the government's responsibility to protect children from sexual offences; the priority of government commitment is clearly successful prosecution (Horner, 1993). There are conflicting responsibilities in meeting "the best interests of the child": first, protection from offenders, and second, addressing the trauma experienced by child witnesses. How this conflict is to be addressed in order to meet the needs of the child is a joint responsibility of the legal and therapeutic systems.

Properly trained therapeutic practitioners have a role to play in addressing the therapeutic needs of child witnesses throughout the court process. This leads to the concept of "the parameters of therapeutic support". The issue of child witnessing cannot be separated from its legal context. Therapeutic practitioners require knowledge of the legal process in order not to be afraid of it, or to sabotage it unknowingly (Harvey & Dauns, 1993). Our legal system is an adversarial one; knowledge of the roles of court practitioners is important to understanding the legal system. Child witnessing also affects the defence of the alleged offender. The rights of the accused, relevant to the use of child witnesses, and the concept of fair trial will require consideration (Castel, 1992). Such recognition may enable individuals to understand the complexities of the court forum.

The present study explored the parameters of the involvement of the therapeutic practitioners in this legal case. Therapeutic practitioners made presentations to the Four-Year Review Committee (Horner, 1993) advocating support for child witnesses within court process and in court preparation. Responses have been made in administrative recommendations at the policy level. Also, guidelines have evolved for education of Crown Counsel in areas relevant to child witnessing (for example, child development, language, and communication skills). A format for a team approach to court preparation has been outlined (Harvey & Dauns, 1993). Harvey addresses permissible and appropriate therapeutic interventions (for example, coping mechanisms, but not evidence review).

Evolving from the concepts of "the best interests of the child" and "the parameters of therapeutic support" is the third concept of "descriptors of relationship" between the therapeutic and the legal practitioners. The first concept identifies the mutual responsibility of the legal and therapeutic practitioners for the well-being of the child; the second concept looks at the structure of therapeutic responsibilities within the legal context; the third concept suggests a means to address the problem of conflicting legal and therapeutic interests. In this problem area , relationships occur among people from different professional disciplines. Charles Bruner (1990) views collaboration between disciplines as including the following elements: "jointly developing and agreeing to a set of common goals and directions; sharing responsibility for obtaining these goals; and working together to achieve those goals, using the expertise of each collaborator" (p. 6). Collaboration (Bruner, 1990), partnership (Rogers, 1987), and merging of approaches (Harvey & Dauns, 1993a) are descriptive of work relationships. This study examined the Crown Counsels' and the therapeutic practitioners' perceptions of their work relationship.

Literature review

Approach to literature review

The literature review undertaken for this study covers: a historical review of the legal response in Canada to sexually abused child witnesses; current policy and practice literature addressing child sexual abuse and interdisciplinary relations; research literature related to system-induced trauma, drawing attention to the special needs of the child witness.

Legal response to child witnesses

Child witnessing is a current phenomenon, resulting from the recent recognition of the child as a credible witness, often the only witness to his or her own sexual abuse. Historically, child witnesses were viewed as unreliable; when children did testify under oath, the court warned the jury against conviction on the child's testimony alone, without corroboration by an adult. *Bill C-15* (Canada, 1988) eliminated the need for corroboration of the unsworn evidence of children in cases of sexual assault; *Bill C-126* (Canada, 1993) eliminated the need for corroboration in general of child witnesses. As a result, increasing numbers of children are testifying in court, affecting courtroom practices and generating case law to accommodate the needs of the child witness during trial (for example, use of screens and hearsay evidence).

Interdisciplinary relations

A call for interdisciplinary relations in policy and practice emerged concerning child sexual abuse in general and court process in particular. Child sexual abuse

historically has been a largely hidden problem in Canadian society. The *Report of the committee on sexual offences against children and youths* (Badgley, 1984) contributed to the awareness of the extent of child sexual abuse in Canada. The committee concluded that crimes of sexual abuse of children are extensive, and that both protection by law and public services are inadequate. The committee called for joint endeavours by all levels of government to work in full cooperation with non-governmental organizations.

Wilk and McCarthy (1986) suggest that choices made by professionals in child sexual abuse cases are based on individual values and professional socialization. Joint protocol and networking among agencies and joint in-service training and education programs may serve to reduce differences between disciplines and promote coordination of unique strengths and skills. Saunders (1988) justified collaboration based on two interdependent features: child abuse is a crime that demands a legal response, and a vulnerable child is the victim of the crime, demanding a therapeutic response. Saunders also concludes from his research on attitudes towards child sexual abuse by social work and judicial system professionals, that an "appreciation of similarities and differences among groups can prove instrumental in facilitating collaborative practice" (p. 84).

Rogers, appointed in 1987, prepared *Reaching for solutions: The report of the special advisor to the minister of National Health and Welfare on child sexual abuse in Canada* (Rogers, 1990). The strength of this report was in its advocacy of linkages in service; clear recognition of federal responsibilities; recognition of the United Nations' *Convention on the rights of the child* (1989); recognition of societal attitudes to sexual abuse of children as a reality; and recognition of gender dimensions of child sexual abuse.

The report also declared the importance of partnerships between government, voluntary, and private sectors to address the seriousness of child sexual abuse.

The *Four year review of the child sexual abuse provisions of the Criminal Code and Canada Evidence Act (Formerly Bill C-15)*, (Horner, 1993), identified causes of system-induced trauma to child witnesses. Recognizing the stress and anxiety experienced by children in the court process, the review recommended the promotion of court preparation to cope with the pressures of testifying.

The approach of Harvey and Dauns (1993a) to witness preparation and support calls for cooperation between court practitioners and health and social service practitioners from mandated agencies and non-government practices. Harvey and Dauns support a team approach to court preparation based on cooperative agreement, which includes government, community agencies, and support persons. In *Sexual offences against children and the criminal process* (Harvey & Dauns, 1993a), they advocate for a merging of two approaches: the mental health support model (orientation of the child to trial experience and education in coping strategies) and the advocacy support model (legal advocacy ensuring accommodation for child witnesses by legislative and case law).

Working together, recognizing differences and similarities, and respecting multidisciplinary skills and expertise, promotes relationship through cooperation, coordination, partnership, and/or collaboration focused on meeting the concerns of both legal and psychological/social perspectives.

Research literature: the special needs of the child witness

Many legal and counselling practitioners have claimed that court involvement traumatizes and re-abuses children (Parker, 1982; Avery, 1983; Berliner & Barbieri, 1984; Fote, 1985; Bala, 1990). The following review of recent research literature related to system-induced trauma draws attention to the special needs of the child witness.

Goodman, Taub, Jones, Patricia, Port & Pardo (1992) studied a sample of 218 children who had been sexually assaulted. Behavioural disturbances, during and after prosecution, were measured. This study was a comparison of those children who testified and those who did not. The child's well-being was measured shortly following the case referral for prosecution, by a child behavior checklist and a teacher report form. Both provided scores on behavior problems, internalized problems, and externalized problems. Children were interviewed before court appearance; child testimony was observed; children were reinterviewed after testimony. Measures of adjustment were made three and seven months after first testimony and again after case closure. Families were surveyed for child and family attitudes toward the legal system. All data were categorized for statistical analysis.

The study found higher disturbances among the child witnesses during prosecution. Once prosecution ended, adverse effects diminished. Disturbance levels were found to be affected by individual circumstances (for example, number of times on the stand, maternal support, and corroboration of the child's story).

The study was extensive, concerned with both short-term and longer-term effects on children's adjustment. The study also addressed the interaction with professional practitioners. The findings of individual case differences show that no two criminal cases

of child sexual abuse can be the same. Professional practitioners are more likely to be experientially aware of individual case differences, and I believe Goodman et al.'s findings support my interest in studying the individual practitioners within the legal context of a single case.

Melton (1992) made commentary to the study of Goodman et al. (1992) in his article: *Children as partners for justice: Next steps for developmentalists*. Melton states the need for research: to examine individual differences; to be multisite; to conduct natural experiments in legal process. Melton proposes that children be treated as "partners in the pursuit of justice" (p. 153) and that the significance of court process could reasonably be assumed to be greater in jurisdictions where preparation is not adequately available. Referring to the responsibility of government policy concerning child development and well-being, Melton candidly points out:

> Insofar, however, as anxiety is being used as a marker of disturbance, long-term effects are much more relevant to the state's interest in children's development than are immediate effects. (p. 155)

While current Canadian legislation supports that children can be reliable witnesses and, as such, are entitled to support and preparation in court process, I am not totally convinced by Melton's argument that children be treated as "partners in the pursuit of justice". My personal belief is that children should be treated as children, less capable than adults to comprehend the complexities of society's laws and the court forum. It is my opinion that children cannot be "partners" in matters beyond their comprehension. Such a use of the concept of partnership negates any concern for capability (development). The idea that child and adult should be treated, and are able to act, the same also negates adult responsibility for children's best interests.

What does "partnership" with a child allow for in the legal system? It is suggestive, in my opinion, of the withdrawal of adult professional responsibility for the best interest of that child. As the legal system focuses on prosecution, is Melton suggesting that the legal system be relieved of responsibility for system-induced trauma of the child, or to shift that responsibility to the therapist alone? Is the therapist then to be responsible for nurturing a perspective shift of the child to one of "partner" with the court process? Is "partnership" what the child and family want, or is it support to actively participate in and understand the court process in efforts to eliminate a victim posture? In my opinion, the role of partnership should be the responsibility of the trained professionals involved.

Myers (1992) also writes commentary to the Goodman et al. (1992) study, taking the position that the "fact that most children who testify improve with time supports the continued use of their testimony" (p. 145). Myers describes children as "weathering the storm" and "bouncing back" (p. 145). Myers calls this the overriding theme of Goodman's study. This is a contradiction to my belief that the focus of Goodman et al.'s findings is individual difference.

Myers agrees with Melton that the long-term effects of testifying related to child development are more relevant to legislative and legal perspectives than short-term effects. Myers' opinion is that "research on child witnesses should focus on forensically relevant information" (p. 148). Forensic relevance would be related to children's credibility and competent testimony within the legal context. While Goodman et al.'s study reveals individual differences, and Melton calls for further research to examine

individual differences (in multiple sites with natural experiments in legal process), Myers calls for developmental research to focus on successful prosecution:

> This research has immensely important implications for the investigation and litigation of child abuse cases. Unfortunately, this valuable research—appearing as it does in the psychological rather than the legal literature—seldom finds its way into the hands of judges and attorneys who could put it to good use in the field. More effective channels are desperately needed to transfer the accumulating psychological knowledge about child witnesses to the legal and judicial professions. (p. 149)

Myers appears to be focused on children in general (not individually) and on generalized child development specific to successful prosecution. In my opinion, the perspective of successful prosecution and the perspective of the individual child's psychological well-being must cross paths, come together, and seek partnership. To address one perspective is to address the other one. Health and social systems concerned with psychological and social well-being are enmeshed with the legal system, highlighted in this area of child witnessing. Interdisciplinary relationship is a necessary means to meet the concerns of legal and psychological/social perspectives in criminal cases involving children as witnesses. I believe my study recognizes the two perspectives and explores the existing relations.

In 1991, Sas evaluated the London (Ontario) Family Court Clinic's Child Witness Project, which included short-term outcome measures of the child's general psychological/ social adjustment and the child's courtroom performance. Data sources that measured general psychological and social adjustment were the child (self-report) and the parent or surrogate (checklist and intake interview). A number of standardized tests were used to measure abuse-related fears and anxieties; a "fears of court" measure was designed; and a "knowledge of court" questionnaire was also designed. Data were statistically analysed.

A secondary study of symptomology of Post Traumatic Stress Disorder confirmed clinical impressions of significant problems related to the abuse and court involvement.

In 1993 Sas looked at the long-term effects of court involvement of children previously involved with the Child Witness Project. One hundred and twenty-six children participated in the evaluation of the Child Witness Project in 1988 and 1989. An average of two years and eight months later, 61% of the 117 children contacted participated again in the longitudinal study. Long-term psychological effects of child witnesses (three years after the verdict) concluded that child witnesses were disturbed in the short-term, with degrees of recovery over the long-term.

In *Three years after the verdict* (1993), Sas responds to Myers' commentary on the Goodman et al. study (1992), regarding Myers' notion that children "bounce back":

> How can we determine who will or who will not "bounce back?" And, more importantly, how can we change the experience so as to avoid needless secondary trauma in the first place? (p. 15)

Our society recognizes the rights of the individual. Ethically, issues related to the well-being and protection of children must be specific to the individual child and situation; some children cannot be sacrificed because others are coping and successful prosecutions are on the rise.

Summary of the literature

In the current literature, Goodman et al. (1992) and Sas (1993) concluded that, with respect for individual differences, most children recover to degrees over the long-term. Melton (1992) and Myers (1992) conclude that this recovery supports continued use of child witnesses in the pursuit of justice and prosecution. Sas (1993) responds by

asking "how can we change the experience so as to avoid needless secondary trauma in the first place?" (p. 15)

In proposing solutions, Melton (1992) calls for research to examine individual difference, to be multisite, and to conduct natural experiments in legal process. Harvey and Dauns (1993a) propose a team approach to preparation and support of child witnesses spearheaded by the Crown Counsel. Simply phrased, it appears that resolution is seen by Melton as a process (of continued research) and by Harvey and Dauns as an outcome (implementation of a structured team approach). Interdisciplinary relationship appears to be inevitable to meet the best interests of the individual child. Looking at a specific relationship between the Crown Counsel and the therapeutic practitioner, through description and examination, may provide understanding and stimulate future directions of resolution and change.

The present study continues to research understanding between the two disciplines of law and therapy by describing a work relationship between the Crown Counsels and the therapeutic practitioners, as perceived by these practitioners within the context of a legal court case in one B.C. community.

This study differs from the research literature in that it specifically addresses the workers' perspectives. The study is focused on the participants' perspectives of their work relationship within the context of one legal case in one B.C. community.

Methodology

Research design

I have chosen a descriptive qualitative research design within the context of a single legal case in one B.C. community.

Qualitative research is a field of research that yields rich description and attempts to give readers a feeling of seeing things from others' points of view. I believe this to be a powerful route towards knowledge and understanding. The research methodology I am using is influenced by Guba and Lincoln's (1985) social constructivist approach, where the contribution of each individual to the creation of a reality is recognized.

Taylor and Bogdan (1984) state that "qualitative methodology refers in the broadest sense to research that produces descriptive data: people's own written or spoken words and observable behavior" (p. 5). The work relationship is described through the participants' own words in answer to the research questions: Within the context of a single court case of alleged child sexual assault, how do the Crown Counsels and the therapeutic practitioners perceive their work relationship? What are the Crown Counsels', the therapeutic practitioners', and the child's parents' perceptions of the influences of this relationship on the child witness? Interviews with study participants were conducted to generate the spoken words. Observation of the legal trial was conducted and included observable behavior. In addition, relevant documents were accessed.

The research design emphasizes a naturalist approach to qualitative research as described by Huberman and Miles (1994). I entered a field situation (the legal case and trial of legal and therapeutic workers) over a period of six months. I gained a holistic view of the legal context in which the work relationship occurred. I attempted to capture

data on the perceptions of the workers and the parents of the child witnesses "through a process of deep attentiveness, of empathic understanding, and of suspending or 'bracketing' preconceptions" (Huberman & Miles, 1994, p. 6). From interview transcripts, I isolated themes and expressions that were reviewed with participants.

In naturalistic inquiries, Guba and Lincoln (1985) describe the researcher as a human instrument and state that the "human-as-instrument" uses qualitative methods that are "extensions of normal human activities: looking, listening, speaking, reading, and the like" (p. 199). In addition, I view the role of the researcher to include responsibility for description and for interpretation of the data collected through these human activities.

Description, aside from being valuable in its own right, also has an interpretive purpose, "to illuminate the constant, influential, determining factors shaping the course of events" (Huberman & Miles, 1994, p. 301). To achieve this purpose, I took responsibility for interpretations in the field (Stake, 1995):

> Standard qualitative designs call for the persons most responsible for interpretations to be in the field, making observations, exercising subjective judgement, analyzing and synthesizing, all the while realizing their own consciousness. (p. 41)

A descriptive qualitative study within the context of a single legal case in one B.C. community is congruent with my own values and professional practice. The design is a reflection of my personal interest in understanding the realities of the work relationship perceived by the legal and social front-line practitioners, and striving for the balance of perspectives while focusing on the best interests of sexually abused children.

A single legal case

The descriptive qualitative research design is informed by case study methods (Yin, 1993; Stake, 1994; and Patton, 1990).

Patton (1990) comments that "regardless of the unit of analysis, a qualitative case study seeks to describe that unit in depth and detail, in context, and holistically" (p. 54). Patton also states that case studies "become particularly useful where one needs to understand some special people, particular problem, or unique situation in great depth, and where one can identify cases rich in information" (p. 54).

The choice of a single legal case allows for description of a phenomenon within its context (Yin, 1993). What has struck me about my topic is its inseparability from its context. To understand the area of child witnessing it is necessary to gain knowledge of the legal and social context in which it is placed. The legal system wants a credible witness for successful prosecution; the therapeutic system wants to protect children and alleviate the suffering of the individual child witness. A child supported and prepared for court is less likely to be traumatized by the court experience (Sas, 1993) and subsequently seen as credible (Harvey & Dauns, 1993a), with prosecutions likely to be successful (Horner, 1993). Individual practitioners are working within the legislative bounding of the issues they wish to address.

Selection of a single case is also preferred in the examination of contemporary events when the behavior of participants cannot be manipulated (Yin, 1984). The use of children as witnesses to their own abuse is a contemporary event. As child abuse became recognized as a serious crime in Canada (Badgley, 1984), children became recognized as credible witnesses through new legislation (Canada, 1988, 1993).

Stake (1994) describes a single case as a "functioning specific". Each criminal case of sexual abuse against a child has its own uniqueness (Goodman et al., 1992) that gives rise to issues particular to its context. Goodman et al. (1992) and Sas (1993) found that system-induced disturbances of a child were affected by individual circumstances. Individual children have different reactions to combined personal and situational variables (Sas, 1993), for example, maternal support and relationship to the accused. Therefore, each criminal case of sexual abuse against a child and the child's reaction to the abuse and the court process, constitutes a "functioning specific".

I described the work relationship within the context of a single legal case. The purpose of choosing a single legal case was not to ensure generalization. Others may learn from how a case is like or not like other cases but I do not intend a direct comparison. Stake (1995) calls this process "naturalistic generalization", the case to some extent is parallel to others' experience, providing opportunity for vicarious experience of the reader, and/or providing the opportunity to modify past generalizations. This is also called "fittingness" by Lincoln and Guba (1985).

The description of the phenomenon within this particular legal case is reliable and important knowledge. The single legal case offered the opportunity for understanding, through description of the issues, context, and interpretations.

Participants and sampling

I used a purposive sample. The community selected was accessible to me, with reasonable access by the children and families to existing resources and court facilities.

The single legal case was selected upon referral from the community's Crown Counsel. The legal case included three children who received therapeutic support and preparation prior to the criminal trial.

The legal case participants included those persons willing to participate in the study and to have their interviews audio-taped. These included two of the community's Crown Counsel and two of the community's therapeutic practitioners. Other participants in the legal case who contributed their perspectives were the parents of two families, the Victim Assistance worker, and the child psychologist/expert witness.

Consultation

Acting as a legal informant was a non-practising lawyer with past experience in child sexual assault cases. I enlisted the assistance of this lawyer to enhance my own understanding of the trial setting and processes. This informant, also observing the trial, acted as an insider familiar with the setting and personnel roles within the courthouse, and had access to legal information concerning trial context and legal procedures.

Data collection

Observation of the legal trial

Directly observing trial process and legal activities allowed me to better understand the context in which the work relationship occurred. Understanding context is essential to a holistic perspective (Patton, 1990). Observation was one means of exploring the work relationship between the Crown Counsels and the therapists and contributing to the in-depth interviews of the key informants.

I used Patton's data sources (1990) to guide my observation of this particular trial: the physical and social environments, structured interactions, formal activities and behaviors, and language.

I observed the physical environment, writing a description of the courtroom and drawing sketches and diagrams. The diagrams showed positions of people, areas, and furnishings, much like a map from a bird's eye view. Sketches gave a viewer's perspective from a given position in the room, similar to a camera (which is not permitted in the courtroom). The written description gave a three-dimensional experience, a physical sense of presence in the setting.

I noted the direction and flow of the interaction of the trial participants, and the specific roles they played. Formal roles and interactions observed were those of the Judge, the Crown Counsel, the Defence Counsel, the witnesses, the Sheriff, the Court Clerk, and the Court Recorder.

I observed formal activities and behaviors within the public trial context. For example, I would note information concerning a child's behavior and development in the testimony of the therapists and the expert witness. I also made a comparative observation of the courtroom accommodations made for the child witnesses.

Distinct terminologies were observed during the trial, as were decision-making processes and the roles of various documents in the legal proceedings.

Interviewing the key informants

Given the legal context of the work relationship between the Crown Counsels and the therapeutic practitioners, the interview guide was developed following the trial

observation. Question guides were specific to the legal case, the individual child, and the individual legal and therapeutic practitioners (Appendix C).

I addressed the relationship between interviewer and participant with a sense of equality as expressed by Kirby and McKenna (1989):

> For quality interviewing, there must exist a sense of equality between the person gathering the information and the person whose knowledge is sought. Some combination of a set format with preformed questions and more interactive, spontaneously developed questioning is optimal. This creates space so the input of the research participants can help guide and shape the research interaction. (p. 67)

In depth interviews with eight key informants were audio-taped and transcribed verbatim. Each individual's interview was approximately one hour in duration. At the request of the Crown Counsel, the interviews were scheduled after completion of the trial, judgement, and sentencing. The time frame for interviews was two weeks, and they were held at the convenience of the key informants. The two therapists and the expert witness (child psychologist) met with me in their respective offices; the two Crown Counsels met with me in their respective offices; the parents of one child and also the Victim Assistance worker met at my own home at their request; one parent met with me in her own home at her request.

An interview guide for the conversations was determined based on my observation of the trial and the identified concepts of the study. Feedback from my legal informant/fellow observer and one of the therapists confirmed the guides.

I kept a journal of the formal interview experience for the purpose of self-awareness, context, and description. A summary is an appendix to the study report (Appendix D).

Influences on data collection

There were four influences on my observation of the trial: the Crown Counsel as gate-keeper; the legal informant/fellow observer as consultant; my own perspective lens; informal activities and behaviors.

A Crown Counsel was the gate-keeper (Patton, 1990) to the trial setting and also referred me to the therapists' association involved. He cautioned me that he would not appreciate the discussion of details of the abuse or identification of the children or their parents prior to the trial, due to a risk of any contamination of the legal process. This caution increased my awareness of the importance of context to my study interest. There is a legal setting in which this work relationship occurs.

The study took place in this legal context, the culture of the legal participants. I entered this legal culture, informed by my own experience and education, but nonetheless an outsider. I benefitted from the presence of my legal informant/fellow observer during observation of the trial. His insider position as a lawyer allowed for my initial acceptance by the legal practitioners, the courthouse office workers, and the legal librarians. The presence of the second observer provided me with a comrade to debrief each long day in the courtroom and to compare and discuss our observations. As a consultant, my legal informant's perceptions of the law influenced me and therefore influenced the study. His communication of his legal lens increased my own knowledge of, and respect for, the legal roles and the difficulties entrenched in those roles.

I am a child and youth therapeutic practitioner. My own lens is a humanistic one; I am focused on the well-being of the child and family. I am knowledgeable regarding child development. I am experienced and insightful regarding human behaviors and

relationships. My experience provides me with empathy and understanding of the child and the family, as well as for front-line workers within our social systems of health, education, and social welfare. My work with children has resulted in extensive interaction with community health and social service professionals, enhancing my understanding of these workers' terminologies as they testified as witnesses at the trial.

Learning from my legal informant helped integrate my stance with a legal one. As I became more knowledgeable about the roles, duties, and work strategies of the legal professionals, I came to see how the non-legal participants in the trial were positioned to have their knowledge and experience fitted into the legal culture.

My observation of the legal context, the trial itself, was a formal observation. Informal and personal interactions did not play a direct role in this study as the many participants in the setting were not approached for their approval of recording such information. Of course, informal and personal interactions did occur in the context of casual conversations, personal encounters outside the courtroom, shared coffee breaks, and courthouse tours. I did not remain a total onlooker in the days, weeks, and months of the trial process, but assumed a minor degree of participation in the informal, peripheral settings. I was influenced by the informalities and kept a private accounting of these influences. This account provided self-awareness of any presuppositions and personal views as the study progressed.

There were also influences on my interviewing of the participants. The question guide was a starting point. In retrospect, I did not pose some questions clearly; on occasion, people were confused by my wording. I encouraged their own interpretation. My own responses may also have been better professionally, given more research

experience. I learned, however, that it is the rapport that most influenced the interviews and encouraged the participants to openly explore the work relationship with me.

Rapport began long before the formal interviews; it took time and conscious effort. The rewards included availability of people, and the richness and depth of their interviews. I made myself available, listened, did not avoid self-disclosure, and held no hidden agenda. Interactions spanned six months—before, during, and after the trial. A circle of participants formed over this time. They were communicating with each other. Each one's interest in our study perhaps encouraged the others, serving as an informal reference to my trustworthiness. I recognized the importance of my approach, my respect for time and space, and my self-knowledge, communication style, and values. I acknowledged the support staff of participants, office personnel and colleagues. I did not always address the research focus; I was personable, relaxed, and enjoyed social and professional conversation. After all, the participants were interviewing me too.

Data analysis

Huberman & Miles (1994) define display to mean "a visual format that presents information systematically, so the user can draw valid conclusions and take needed action" (p. 91). I chose to adapt the display format to bring the interview text into a framework focused on description of the work relationship as perceived by the Crown Counsels and therapeutic practitioners. Huberman & Miles (1994) advise their readers "to look behind any apparent formalism and seek out what will be useful in your own work" (p. 5). Seven displays were generated in the analysis.

I used my first data display to answer my own inquiry about the interview transcripts of the two Crown Counsels and the two therapists. What is the subject matter, what are they talking about? Influenced by Hycner (1985), I separated each expression on each transcript and proceeded to cluster all expressions by all informants into subject areas.

Findings from my first display suggested a comparison of the identified subject matter, with the conceptual framework of the study. I found a fit between the subject areas and the conceptual framework. This finding made me feel on track and comfortable proceeding to identification of themes and my next display.

This next display focused on identification of themes within the interview text of the two Crown Counsels and the two therapists. I read each transcript twice for a sense of the whole interview. I then noted thematic content in the margins of each transcript. Themes were identified across transcripts. Transcripts were color-coded by identified themes. I displayed the themes with participant quotes across transcripts that illuminated each theme. A summary text was written.

Continuing the display format, I focused on identification of themes within the interview text of the two Crown Counsels and the two therapists, with the second research question in mind: What are the Crown Counsels', the therapeutic practitioners', and the child's parents' perceptions of the influence of this work relationship on the child witness? Quotes expressing an influence or impact of the relationship on the child were displayed. Notes on thematic content were made beside each quote. Themes were identified and colour-coded on the display, and the summary text was written.

Again through display, I focused on identification of themes within the interviews of the parents of two families involved in this legal case, with the second research question in mind: What are the Crown Counsels', the therapeutic practitioners', and the child's parents' perceptions of the influence of this work relationship on the child witness?

Parents' quotes that illuminated the influence of the work relationship on the child witness were displayed. Notes on thematic content were made beside each quote. Themes were identified and colour-coded on the display, and the summary text was written.

To approach the next two displays, the interviews with the child psychologist/expert witness and the Victim Assistance worker were reviewed individually for the purpose of contributing their perceptions to the study. Quotes by the psychologist and the Victim Assistance worker that concurred, contradicted, or expanded those of the Crown Counsels and the therapists were displayed. Two summary texts were written.

Rigor

I used Sandelowski's (1986) framework for the assessment of rigor in this qualitative study. Derived from the work of Guba and Lincoln (1981), Sandelowski presents these four factors for assessment of rigor: credibility, applicability, consistency, and neutrality. I will discuss each factor as it ensures the rigor of the present study.

The first factor is credibility. Guba and Lincoln (1985) assume multiple constructed realities, constructions made by humans in their own minds.

> (T)o demonstrate "truth value", the naturalist must show that he or she has represented those multiple constructions adequately, that is, that the reconstructions (for the findings and interpretations are also constructions, it

> should never be forgotten) that have been arrived at via the inquiry are credible to the constructors of the original multiple realities. The operational word is credible. (p. 295–296)

The present study is credible because it describes the work relationship from the multiple viewpoints of the participants. The participants' individual mental constructions have been described and interpreted in a manner that presents a holistic reconstruction by the researcher. These findings have been approved by the participants as an accurate reflection of their interviews (member-checking).

The observations and descriptions of the trial setting and legal processes have been confirmed as a fair and accurate accounting by my legal informant/fellow observer. For the purpose of peer-checking, an independent reader—a social worker with a background in criminology—has explored my decision trail, providing feedback and recognizing the work relationship in my reporting of the findings.

Prolonged engagement in the field achieved my familiarity with the context, and built trust and rapport between myself and the participants. Persistent observation with no absences, and in-depth interviews with participants were activities that also increased the probability that credible findings were produced. Guba and Lincoln (1985, p. 304) state that "If prolonged engagement provides scope, persistent observation provides depth."

The second factor presented by Sandelowski's framework is applicability or "fittingness" (Guba & Lincoln, 1985). There is no intention of this study to generalize or make direct comparisons, other than providing vicarious experience and/or the opportunity to modify past understandings. My rationale for choosing a single legal case has been discussed earlier in this chapter. For those stated reasons this study is not

intended to transfer directly to other cases. This study is time and context dependent and the "fit" of this study can be determined by the individual reader as pertains to his or her own experience and understanding.

Sandelowski includes participant selection in the applicability factor, supported by this statement by Guba and Lincoln (1985):

> The naturalist inquirer is also responsible for providing the widest possible range of information in the thick description; for that purpose (among others) he or she will wish to engage in purposeful sampling. (p. 316)

I have been clear about my reasons for selecting this legal case and these participants, and have carefully recorded my means of data collection and analysis. Whether my description and interpretations would hold in some other context or time depends upon the degree of similarity between the two contexts and times (Guba & Lincoln, 1985).

Three major threats to applicability as seen by Sandelowski (1986) are: the holistic fallacy, the elite bias, and "going native". In the holistic fallacy, there is the danger that data may be made to look "more patterned or regular or congruent than they are" (p. 32). I have been careful to state the themes in relation not only to the two professional positions of Crown Counsel and therapist, but also to the four individuals in these two positions. I state clearly in my reporting which individual has been quoted. Themes were attributed to all four workers unless stated otherwise. When discrepancies arose they were pointed out in the reporting.

The second major threat to applicability is the elite bias: "because subjects who act as respondents or informants in studies are frequently the most articulate, accessible, or high-status members of their groups" (Sandelowski, 1986, p. 32). The participants of this

study were articulate and accessible. The sample was purposeful. As the study progressed, and during observation of the trial, I made the decision to interview the psychologist/expert witness and the Victim Assistance worker involved. The views of these two participants attending the trial were added to those of the Crown Counsels and the therapists. The data from all interviews, observation, and relevant documents, along with the field literature, established congruence and protection from elite bias.

The third major threat to applicability is "going native". I kept a personal journal throughout this study, identifying my thoughts, feelings, experiences, and pre-suppositions. My intent was to remain conscious of my on-going perceptions. I took long walks with a friend and shared my feelings and thoughts, gaining perspective from her feedback and insights. In these ways I could externalize my internal experience. Self-awareness was my protection from "going native".

The third factor in Sandelowski's (1986) framework to assess rigor is consistency or auditability.

> A study and its findings are auditable when another researcher can clearly follow the "decision trail" used by the investigator in the study. In addition, another researcher could arrive at the same or comparable but not contradictory conclusions given the researcher's data, perspective, and situation. (p. 33)

This study and its decision trail were followed by a professional researcher who read all of the transcripts and summaries of observations, and reviewed each analysis display and interpretation. Her comments reflected the same, comparable, and uncontradictory conclusions.

The fourth factor for the assessment of rigor is neutrality (Sandelowski, 1986). Guba and Lincoln (1981) encourage confirmability as the criterion of neutrality, achieved

upon the establishment of auditability, credibility, and applicability. In this section of my report, I have established the criterion of neutrality and ensured the rigor of the present study by meeting the assessment requirements of Sandelowski (1986) supported by Guba and Lincoln (1981, 1985).

Ethical considerations

This study involved human subjects from whom information or data was obtained. Ethical approval of the study was obtained from the University of Victoria Human Subjects Review Committee.

A verbal and written description and explanation of the study was presented to each participant. A letter of informed consent was signed by each participant before the collection of interview data. Participation was completely voluntary and participants could withdraw from the study at any time without explanation. All data and information collected in the study remained confidential and were kept in a secure file in a locked room. No names were attached to any results and identifying characteristics were disguised. Interviews were audio-taped and the tape was erased immediately after being transcribed in anonymous form (approximately one month following the taped interview). A meeting with myself could be requested for any clarification, and participants had the right to any subsequent inquiry or complaint concerning the study from myself or my supervisor at the University of Victoria.

It is not possible to guarantee anonymity of a public trial, but measures were taken to disguise or exempt specific identifications. No names were used in the results of the study and no disclosure made of particulars of the alleged abuse of any child. Upon

conviction, the accused has the right to an appeal. Consequently, evidence is not discussed in the study.

The researcher's experience

To present to the reader my experience of being a researcher, I have chosen to use my personal journal to illuminate the journey that this study has been for me. Much has been written in this report about my decisions concerning choice of topic, research questions, and methodology. This section of the report is an opportunity to show how research has been a process for me, one that will continue to influence my life and work long after completion of the present study and its report. Through the use of excerpts from my journals, I hope to show how this activity of writing thoughts kept me in touch with my experience of being a researcher, making me accountable for my decisions and actions, and conscious of my own perspectives.

First I will present to the reader without comment, my journals' self-talk which reflects the internalizing of my learning about world view, the importance of intuition, the connection of the personal self to the research field and existing literature, the self doubts, the personal commitment and determination, the realm of feelings from elation to humility, the mental and physical exhaustion, and above all the drive to press on.

Having shared my self-talk in presenting the personal feelings and flow of the research process, I will share further excerpts of my journals with commentaries on my learning throughout this study: checking through constant questioning, setting personal limits, influences on interviews, the fit of interview style, respect for the whole, and the experience of walking in another's shoes.

Self-talk

World view is the filter for how each one views things, like a personal lens. My world view is a humanistic one. I think when people are reduced to statistics, the reality of their lives, their own perceptions and meanings, can become lost.

Research is a struggle with awareness, improvement, expression. There are no absolute answers, and insight does make a difference. There is a standpoint from which to interpret differently that which at first appears to be neutral knowledge.

I was attracted to Wendy Harvey's commitment to meeting the needs of the child witness. This was the beginning of my connecting to people, connections that took me to places, taught me about things, supported me, guided me, and gave me courage to follow a process that would only reveal itself in fragments over time.

Am I going to shift and slide everytime I look at something, go somewhere, meet somebody? Do I have the resources, time, money, energy, drive, to relentlessly pursue what may or may not be there? Do all researchers have permanently crossed fingers?

Here it is midnight and I'm closing the day—not a good day. My area is formidable, I doubt my abilities, I'm vague, not concise. I must read, explore, search, talk, phone, and go!

Is that me talking? How is it that I sound so clear about what I am doing? Sometimes I hear my own voice, discussing, explaining, inquiring. It's as though I step behind myself, observing my information, my presentation, and I find myself surprised and impressed. I do have a good knowledge base. I do know why I'm looking at it this way. Interesting.

Do not be afraid, trust your ability. Assume your place and be accountable to that responsibility. You are capable of that. You know who you are; be confident in that.

I tell myself, it is all there. Do not rush to an end. It's too easy to miss what sits under my own nose. Relax, let it come to you; be open to recognizing what is there. I'm not interested in proving anything. My interest is in understanding and describing, or articulating that understanding. So I conclude, that I am the research instrument. It is a humbling thought.

Research is like rock climbing. I just find a hold, grip in, pull myself forward. Elation! And then, the next challenge.

> I found authors of articles referencing other articles who, in turn, referenced the former ones. It was a network! I have joined a club! And with such prominent people, from a number of different disciplines. I am in exceptional company.
>
> I've been on a ride this week, constantly amazed at my discoveries, at myself and my ability to see, to filter, to discover understanding. It's been a most enjoyable experience, not without exhaustion and some bruising.
>
> Doing research, I have come to realize, will be behavior on my part that will seek its own patterns, wholeness, gestalt, equilibrium, homeostasis—you get the idea. Research reflects my personal and professional development.
>
> Work with it, face the fears, and above all carry on. Just like everything else in life. When the going gets tough, press on boldly.

Commentary

I learned that posing questions to myself served as awareness checks throughout the research process.

> The relationships established during the observation of the trial—did they make a difference? Were participants more receptive to being interviewed? Was my behavior consistent, reliable? Were my values sensed as appropriate?
>
> "When we study people qualitatively, we get to know them personally and experience what they experience in their daily struggles in society" (Taylor & Bogdan, 1984). Establishing relationship with the participants called for awareness of setting limits without withdrawing empathy.
>
> Did the interest of my legal informant, myself, and the two local reporters offer support to parents that could not be sustained? I remember wondering about the single parent when court was adjourned. Should I call and see how she was doing? I decided not to, that it might lead me into a counselling role which would be inappropriate.
>
> It was important to be aware of possible influences on the interviews with participants. This was helpful to me in understanding the need to use probes in one interview.

> Remember, too, in your interviews that the trial's closure has a possible effect on the participants' perceptions. For example, the Victim Assistance worker may now be focused on the announcement that there will be an appeal of judgement and the sentence. Keeping the yard tidy, so to speak. Another example, with a guilty judgement, the therapists and the Crown Counsels may feel more positive about their interaction. The guilty judgement may help parents to feel their experience was worth it. Note also the "high" of successful conviction—perhaps promotes desire to participate in the study, to make a difference.
>
> Note that after the sentencing, T.V. media were interviewing some of the participants in this study. What effect might that have had? Resistance to yet another interview disrupting their work? Weary of the public attention suddenly to this case? Concern that this attention would affect an appeal by the accused?

Staying focused on my credibility and genuineness helped to shape my interview style. This helped me to find a fitting style, and maintain awareness of my strengths and limitations. "Indeed, the relationship that develops over time between the interviewer and informant is the key to collecting data" (Taylor & Bogdan, 1984, p. 93).

> I have established rapport and a sense of trust over the six months prior to interviewing. I may be capable of influencing participants if I use a restrictive approach. I have behaved with empathy for the situation of the participants, both professionals and parents. I am not now going to consider a personal withdrawal to a removed presentation. I want to be consistent and my interview style needs to be congruent with my behaviors through the time of the observation. This requires a conviction and trust of myself and my ability to interview in a manner that makes my study credible and my role genuine.

As the researcher, I learned to respect the whole, the parts, and the interconnections. I became comfortable moving in and out, and circling back.

> These themes are not isolated from each other. They are part of a whole that works together. I have attempted to look at them individually for the purpose of recognizing the components of the work relationship as perceived by the Crown Counsels and the therapists. However, they will not remain separated as they interrelate and influence each other and the work relationship as a whole.

I came to walk gently when in another's shoes, and always be cognizant of doing so. I wanted to achieve this feeling in my writing: "(In) studies based on in-depth

interviewing they attempt to give readers a feeling of walking in the informants' shoes and seeing things from their points of view" (Taylor & Bogdan, 1984, p. 124).

> I began my journey into data analysis with a strong sense of responsibility to the participants of the study. My first priority after confidentiality was to the accuracy of my description of participants' perception. I would sense my entry into each participant's shoes during the observation of the legal trial, throughout the interviews, and during analysis. I consciously embraced this position during any of my activities focused on description of another's perception.

It is my hope that this section has allowed the reader a sense of experiencing my researcher's shoes.

Findings

The Crown Counsels made the decision to call the therapists as witnesses to address contamination of evidence as a potential legal defence. It was the process of witness preparation that initiated the work relationship between the two Crown Counsels and the two therapists. The findings are presented from the viewpoints of the participants who perceived their work relationship professionally and personally, reflected both in the relationship itself and in its legal context. The relationship as viewed by the study participants moved in and out of its context. Those perceptions that emerged from the legal context, such as the courtroom experience, were reported as findings.

However, without severing the work relationship from its legal context, a distinction should be noted between the court process and the work relationship. The Crown Counsels and the therapists described the relationship as follows: supportive, melding of two approaches, appreciation of connectedness, helpful, and respectful. Impacts of the relationship were seen in relation to their experience of court: a shift from previous perceptions, an increased understanding of each other's work roles and responsibilities. Furthermore, the therapists distinguished the work relationship from the limits placed on their therapeutic format; the constraints of law were frustrating, the relationship was not. Court experience and legal procedure (through rules, principles, and protocols) were accepted as work practices and therefore, were also assumed as part of the work relationship.

Description of the trial setting

Every morning, before 10 a.m., I entered the courthouse of one B.C. community

and climbed the stairwell to the upper floor. I found myself standing midway in a hall that leads left and also right, maybe eight feet in each direction. Facing me was the bench that I often sat on as I watched the hallway activities, some of which I was a part. The bench was smooth from many such sittings as mine. It was long—three or four people could be comfortably spaced on it. It reminded me of a church pew, both formal and comforting at the same time.

When I sat on the bench, I knew that its back rested against the back wall of the courtroom. On the opposite wall to my right was a waiting room. It was where the Crown Counsel met with the many witnesses that came and went with the support people who accompanied them. At one end of the hall were doors that led to a jury room and a bathroom. At the other end of the hall was a staircase; I could see down to its first landing where the windows were pulled open and the air entered with some relief on those hot days.

When the sheriff announced that court "convenes in five minutes", I entered the door to my right of the bench. Upon entering the courtroom, I noticed that the public seating backs along the same wall as my hallway bench on the other side. Yet, this room was a setting quite separate from the hallway world. It was a room defined by its separations and divisions: the witness "box"; the accused's "dock"; three long desks; railings around the jury seats; and seats for visiting lawyers that were grouped in front of the railing or "bar" which separates the public from the rest of the courtroom.

The horizontal divisions were compounded by vertical levels that also defined and separated the courtroom. From the public seating at the back of the room, some areas of the floor were raised: one step for the first six seats of the jury, two steps for the second

row of six jury seats; two steps to the "dock"; two steps to the witness "box"; also, two steps to the long desk of the Court Clerk and the Court Recorder. Against the far wall, with its locked cabinets of trial exhibits and documents, the Judge's long desk sat four steps high, above all.

There was no jury because the accused had elected trial by Judge alone. The public seating had its daily observers. Introductions were made on a casual basis. A certain camaraderie evolved between us; I came to refer to us as the "group of seven": myself and my legal informant/fellow observer, two local newspaper reporters, and three parents of child witnesses (after their testimony was given in court). I collected the newspaper reports of the two reporters because they had consistently attended the trial. I also related to them as fellow observers; we conferred informally about the legal procedures and the case law.

It was in this setting that I observed the trial prior to the formal interviews with the study participants.

Findings from the trial observation

The Court's social environment was one of order and control. The Judge has the power to weigh the evidence and presentations. The Crown Counsels have prepared their witnesses, and investigating professionals, such as the R.C.M.P., have their own court protocol.

Child behavior and development affected legal decisions concerning use of the screen and admissibility of hearsay evidence. A therapist's testimony that a child refused

to enter the courthouse building affected the Judge's opinion as to the ability of that child to testify.

My legal informant/fellow observer was able to explain legal terminology in every day language. There are rules of evidence, reliability, credibility, case law, procedures, applications, and petitions. Wording that is part of every day routine in the courtroom is batted back and forth like tennis balls: convene, adjourn, examination in chief, cross examination, evidence, exhibit, testify, objection, hearsay, alleged, contamination. Phrases that are historical serve as decorum in the legal setting: my lord, with my lord's permission, my learned friend, all rise. Other distinct terminologies were observed in the testimonies of the physician, social worker, clinical psychologist, therapists, and children.

Decisions concerning legal procedure were made by the Judge after hearing argument based in law by the Crown and the Defence. An example was the decision to allow the content of a voir dire (a trial within a trial) to be accepted as evidence. Another example were the arguments for, and against, the use of a screen for child witnesses. The Judge summarized the arguments, cited the law, and stated his opinion. There were decisions made by the Judge after conferring with other court participants. Participants agreed to continue through a lunch break in order to accommodate a child witness who had been waiting most of the morning to testify.

Various documents played a role in the court proceedings. These documents supported testimony (professionals' notes), raised issues of identification (forms signed by parents), contradicted current testimony (photographs), and served to establish dates, times, and places (mother's notebook). Another area of documents included the case law used in legal arguments. I would spend time with my legal informant/fellow observer to

understand how, for example, *Regina V. Khan* (1990) was applied to the Crown's argument to accept the hearsay evidence of the therapists and parents, and the R.C.M.P. video-taped interviews of children's disclosures.

Accommodation for child witnesses varied. One child used the screen and private entrance to avoid viewing the accused. This child was accompanied to the witness stand by a parent, who remained during the child's testimony. Another child witness also used the screen and private entrance, but did not have a support person. A third child did not use the screen or the private entrance, nor was there a support person in the courtroom. I was cognizant that certain child complainants did not testify, and consequently I paid attention to the legal procedure that allowed hearsay evidence in their case.

The therapists were witnesses for the Crown Counsel and, as such, could be observed to answer questions presumably put forth from the Crown as a result of witness preparation. There is a process before the trial to review the questions that the Crown Counsel will pose to the witness at the trial. Any work relationship beyond this witness preparation process was not evident in the courtroom proceedings. The therapists were asked by the Crown Counsel to state their credentials and to explain the nature and parameters of their involvement with the children. Cross-examination by the Defence Counsel appeared focused on raising any issue of contamination of evidence on the part of the therapists' work.

The primary research question

Within the context of a single court case of alleged child sexual assault, how is their work relationship perceived by the Crown Counsels and the therapeutic

practitioners? Four themes emerged from the interviews with the two Crown Counsels and the two therapists which spoke to their perceptions of their work relationship:

- **The Crown Counsels and the therapists mutually respected and recognized each other's expertise and responsibilities. Two sub-themes emerged from this theme addressing the distinctive work of each profession:**
  - **The Crown Counsels viewed the work relationship with the therapists as an aid to their legal work.**
  - **The Crown Counsels and the therapists saw that the therapeutic work was limited, constrained by legal context.**
- **Knowledge was exchanged through the work relationship and its legal context. Two sub-themes emerged from this theme recognizing the workers' views on the knowledge gained:**
  - **The knowledge gained formed building blocks for the future.**
  - **The Crown Counsels and the therapists formed a mutual understanding of their different, yet compatible, professional roles and objectives.**
- **The Crown Counsels and the therapists perceived the impact of their work relationship in professional and personal terms.**
- **The attributes of the work relationship were generally positive, with a mutual appreciation of the therapists' frustration with the legal context.**

In reporting these four themes, I will be referring to the four participants interviewed as Crown Counsel A and Crown Counsel B, therapist A and therapist B, acknowledging that the two professional roles are being explored with four participants. It should be noted that all workers' interviews support the themes unless stated otherwise. Any discrepancies are noted in the reporting.

Theme: expertise and responsibilities

The Crown Counsels and the therapists mutually respected and recognized each other's expertise and responsibilities.

Crown Counsel A acknowledged the professional responsibilities of the therapist, "a professional person who was dealing with (the child's) emotional and mental well-being", and noted the expertise of the therapists' work.

> There was no question in my mind that either therapists or psychologists would have to deal with the file. As far as the nature of that treatment that's not something that the Crown would involve itself in. That's getting outside our expertise. That's up to the therapists to decide, what's appropriate for the children.

Therapist B acknowledged the professional expertise of the Crown Counsels' work that was shared with her.

> I was allowed a piece of (Crown Counsel A) and (Crown Counsel B)'s expert information, that I was shown how they handled things and what their perception was.

The responsibility of the court system was acknowledged by Therapist A.

> I very much appreciate that the court system needed to, you know, that the work needed to be done in the court system.

Sub-theme: the distinctive work of the Crown Counsel

The Crown Counsels viewed the work relationship with the therapists as an aid to their legal work.

The responsibilities of the Crown Counsels were "made a lot easier" by interaction with the therapists. The therapists' information informed the decision-making of the Crown Counsels. For example, Crown Counsel A made the decision that a particular child should not testify based on knowledge that was relayed by the therapist.

> I think as Crown Counsel you are thinking about it in terms of how can you elicit this evidence in a way that would be least traumatic for the child and, at the same time, wouldn't imperil your case. For instance, one of the children, one of the girls who testified at the preliminary hearing didn't testify at the trial. She was seeing a therapist throughout, at least between the prelim and the trial, and there was no doubt as a result of the child's relationship with that therapist and the knowledge that the therapist relayed to us, we made a decision that the child should not testify. So in that regard there was valuable information provided that we wouldn't have had otherwise to make a decision, but that decision was made a lot easier simply knowing that the child emotionally and mentally was, from a professional person who was dealing with her emotional and mental well-being, is saying that this is very distressful. So it makes it much easier when you have a person who is in tune with those types of interests able to provide you with an answer to your question so, in that regard, it was very helpful.

Crown Counsel B concurred.

> It certainly is of assistance to have my feelings or views on that matter confirmed by and supported by the therapist.

Crown Counsel A also found the children's sexual knowledge, as displayed to the therapists, relevant to the legal case.

> The children's knowledge as displayed to the therapists, is relevant to the psychologist's (expert) opinion that he can give in court and it also appeared to me that the children's knowledge, as observed by a third party, that is, sexual knowledge, is highly relevant simply as of the child's behavior.
>
> The evidence of the therapists in relation to observation of the children's sexual knowledge, which is different than disclosures, was part of the Crown's case. Because knowledge in this particular case, because of the children's young age, was highly relevant.

Crown Counsel A argued for the use of a screen supported by the therapist's information as to the child's fear of viewing the accused.

> Well, again, the use of (the screen) is the result of the child's anxiety about testifying and facing the accused, so in terms of the therapists interacting with us and relating the anxieties of the children, is obviously reinforcing our decision.

Crown Counsel B concurred.

> (The Crown) have to call evidence to show that this child's evidence may be affected if they see the accused person, that it will prevent them from giving a full and candid account of what occurred.. we call either a therapist or a parent to say what fear is expressed.

The screen was a silver mesh construction, approximately 3' by 3', with a light-weight wooden frame and an adjustable slant. It could be placed on a collapsible wooden stand that was placed at the same height as the witness box. The screen was lifted to the stand when children were going to use it, to avoid viewing the accused. The silver mesh of the screen reflected light. The screen leaned or slanted away from the witness while reflecting the light, which prevented the witness from seeing through the screen. From the other side of the screen, the child could be seen by others in the courtroom.

In the courtroom, decisions concerning legal procedure were made by the Judge after hearing argument based in law by the Crown Counsel and the Defence Counsel. The Judge summed up the arguments for and against the use of the screen for two child witnesses, stating that he was "satisfied that it is appropriate to use the screen to obtain a full and candid account". The Judge cited the law to "properly balance the goal of truth and protection of children", and stated his opinion: "in my view the screen is a device by which the court becomes accessible to children"; "accessibility is essential"; "this is one way that court is accessible". Further he stated: "I take into account the age of the witness"; "the fact that the mother has said (behavior)"; the child is "currently in therapy"; the "sexual nature of the proceedings"; events are "traumatic"; and the Judge at the preliminary hearing thought the screen "to be of assistance".

Sub-theme: the distinctive work of the therapists

The Crown Counsels and the therapists saw that the therapeutic work was limited, constrained by the legal context.

While recognizing the need for legal system involvement, therapist A expressed how awareness of court affected her work.

> I was very aware all the time that they were heading for court, all the time, and so that really affected my work with them, and certainly not in a positive way. I mean, I very much appreciate that the court system needed to... you know, that the work needed to be done in the court system and I'm not upset or disturbed in any way around that. It just may... I felt, to explain it to you, I felt my hands were in a set of handcuffs all the time.

Therapist A also expressed how she felt constrained in helping the child deal directly with her trauma.

> Part of the therapeutic work I simply couldn't do. I couldn't make any comment (to the children) about what had been done to them.
>
> I was totally limited, I couldn't say a thing because, if I did, I would have been accused of leading the witness.

The parameters of therapy, within the legal context, were explained by therapist B.

> We were to use all of our knowledge on not contaminating the children in terms of putting any thoughts or questions into their head to lead them into disclosing anything that may or may not be true but that our contact with these children were strictly supportive... giving them an opportunity to ventilate, giving them an opportunity to come in a healthy environment, safe, to play, to talk about anything.

While therapist B emphatically agreed that therapeutic work was constrained, her following comments raised a degree of ambivalence about the constraints. She perceived that constrained therapeutic involvement within the legal context was, at the least, an opportunity to help these children and their families.

> There are guidelines for this and you just use them. And I have no difficulty in that. At least these children, you know, had some contact, they could build a

> relationship, and if I had to keep, you know, some of my style cramped a little bit in therapy... then I knew that at least we had a healthy positive relationship here at the office for any time after court.
>
> We could address some of the sequela, or the behavioral sequela, because of the trauma. That's O.K. How are the kids sleeping, how are they eating, what other behavioral things do you notice that have changed with these children that we can maybe work with and make some ideas about, and we're not directly associating it with, nor are we talking about it in direct relationship to the sexual abuse, sexual assault. We are just saying, at this time these kids are experiencing these behaviors. They're troublesome. What can we do to alleviate them? How can we help the kids? Without the therapeutic environment or experience these families and children wouldn't have had this opportunity.

Crown Counsel A recognized the limitations that the legal context put on the therapists' work.

> The therapists had to be very careful about how they attempted to provide any therapeutic treatment to the child during the course of waiting for trial. So while the child was receiving therapy, it, perhaps, couldn't be addressed in a more direct fashion because of the fear perhaps of tainting the child's evidence in some way.

Crown Counsel B acknowledged particular parameters to the therapists' work due to the legal context.

> The Crown can eliminate contamination at the Defence by showing that they've (therapists) been meeting these kids but they've never asked leading questions or suggested things to them.. they've just sort of been a sounding board.

While Crown Counsel A does not suggest therapeutic format, the legal context of the work relationship is clear.

> The child's evidence has to stand independent of any suggestion that the therapist has been, perhaps, discussing aspects of the case that are beyond the child's own personal knowledge so, I guess in that sense you have to be very careful about how you provide therapy to the child during the time leading up to the trial. But I leave that up to the therapists because... they are aware of the nature of the case.

Theme: knowledge was exchanged

Knowledge was exchanged through the work relationship and its legal context. Two sub-themes recognized the workers' views on the knowledge that they gained.

Sub-theme: building blocks for the future

The Crown Counsels and the therapists viewed the knowledge they gained as building blocks for the future.

Crown Counsel A, through the relationship interaction, learned of the therapists' work with these children, as well as general child development.

> Well, I think that.. simply interacting with a professional in an area that you are not familiar with gives you some insights and knowledge about matters. How the therapists deal with the children in their therapy. You learn these things and they assist you as a lawyer when you deal with very young children, simply that you've gained some knowledge and you put that knowledge to use in subsequent cases so, there are building blocks that are going on here all of the time and I'm sure that the information that the lawyer passes on to the therapist or the psychologist about the legal requirements in a court room are also building blocks for them, so, both sides are learning as a result of their interaction. I don't know if you can measure it or not.

The Crown Counsel B sensed from the therapists that the relationship and court process had been a learning experience for them, and one that will affect their future work.

> I get the sense from subsequent conversations with these therapists that they found it useful going through this process and it will affect how they deal with child witnesses in the future.

As a result of this feedback from the therapists, Crown Counsel B's work was seen as being affected in the future.

> When I meet therapists in the future I'll probably explain our role in a little more detail right at the outset. So that they understand it a bit better. And I probably will spend a little more time explaining the law to them if they are interested in it.

The learning experience of working with these Crown Counsels also set a precedent for therapist B.

> I think it's set some precedent for me that, in future, working with Crown Counsels, I might expect them to ah, work in this manner with the therapists.

The work relationship included the experience of the therapist as a witness in the courtroom. The court experience itself promoted learning for therapist A.

> I learned a great deal from this, a great deal. I learned I could go to court and represent myself and not come out feeling like I had been through a wringer. I learned better how to be a witness.

Sub-theme: mutual understanding

The Crown Counsels and the therapists gained a mutual understanding of their different, yet compatible professional roles and objectives. Crown Counsel A recognized the existence of different professional objectives.

> My concerns are somewhat different than what the therapists are.. They have different objectives entirely.

Crown Counsel A related an understanding of the different issues and perspectives of legal and therapeutic practitioners.

> The therapist is much more concerned about the children's best interests and I'm concerned about a much narrower issue, and that is the child's ability to testify in the judicial process. While I'm obviously in tune to the child's, or try to be in tune to the child's needs, I'm always looking at it in terms of, is the child able to testify. So my perspective is much narrower.. It has to be narrower obviously because I have a much different issue than what the therapist is dealing with.

Therapist A perceived a "melding" of the therapeutic and legal roles in this case.

> I felt there was a melding, a sort of marriage, between the two approaches. I didn't feel any discontinuity or incongruity. I think there was a sense that we each had very different roles to play um.. and a sense that (Crown Counsel) and (Assistant Crown Counsel) were working, I thought well, on trying to help us find connecting points between those roles.

Crown Counsel A noted the point of interchange of the two professional views, regarding a child not able to testify in this particular trial.

> As a lawyer you are looking at it from a legal point of view, the therapist is obviously looking at it from a therapeutic point of view, and there is that area of interchange where you have to decide whether or not you have established the legal basis upon which to not call the child.

The legal basis referred to by Crown Counsel A was the case law of *Regina v. Khan* (1990). I spent some time with my legal informant/fellow observer to understand how the case of *Regina v. Khan* (1990) allowed "hearsay" evidence to be introduced, by the therapist, the parent, and R.C.M.P. videos. Hearsay is a statement made by one person to another outside of court, placed before the court by the other for the truth of the statement's contents. Two principles create exceptions to the rules that exclude hearsay evidence: reliability and necessity. Reliability is a circumstantial guarantee of trust-worthiness; necessity is the issue of availability of the witness and the necessity of hearsay to prove a fact in issue. The evidence must have probative value; if that outweighs any prejudicial effect, then it will be admitted into court. The Judge considers the truth of the evidence, the significance of the fact, and any inferences to be reasonably drawn from it.

Without the children's direct testimony, hearsay evidence presented under the Khan principle at this trial allowed the stories of those children to be told in "voir dire" (a trial within a trial). My legal informant/fellow observer explained the concept of voir dire:

> There's a large envelope. That's the trial as a whole. In the large envelope are smaller envelopes. Each small envelope represents a "little trial", or voir dire. All of them are placed in the large envelope. When the voir dires are argued one by one as to their admissibility to the trial, each small envelope will be opened and either emptied into the large envelope or tossed out altogether. What remains admissible and in the large envelope is the evidence that the Judge will take into consideration when making his judgement.

Theme: professional and personal impact

The two Crown Counsels and the two therapists perceived the impact of the work relationship in professional and personal terms.

The courtroom has been described as divided spaces; similarly, the roles and responsibilities of the workers are distinctive. The individual worker's discourse moves between the professional and the personal, which could be interpreted as a movement towards connecting the distinct professional roles.

Crown Counsel A perceived the professional impact of the work relationship within the context of a successful trial, followed by personal reflection of the impact that an acquittal might have had on the parents and children.

> A positive outcome would always be, from my perspective, that you succeed at trial in the sense that judgements that have been made about the nature of the case, that has come to you on paper or through interviews, is in effect validated by the court process. So that's a positive outcome.

> I'd feel very negative about the file (if there was an acquittal) because, you know, the young children and the negative effect that a not guilty verdict would have on the parents involved and which would eventually permeate its way down to the children.

Crown Counsel B felt the personal impact of the relationship increased her understanding, empathy, and appreciation for the work of the therapists and the well-being of the child.

> I think I appreciate more now that they have good reason for their tempered hostility and that they are trying to help something that we are making worse.

Therapist B felt the work relationship shifted her previous personal view of the justice system.

> It makes me feel that it's possible that real human beings can be in the role of Crown Counsel. Real, caring, feeling people.. so if I can work with people who

> are, can see a whole individual and care about me and care about the people that they are working for and not just the pieces of paper and the legislature and the bureaucracy, then I think OK. This encourages me, it helps balance out my view of the justice system.. so yes it's helped balance me out.

Therapist A combined the personal and professional impact of the whole experience.

> It was like a metaperspective when I was in court being cross-examined, it was almost like looking down on myself so I was distanced from the process in a way that I hadn't been before and found myself feeling tremendous waves of sadness while I was standing on the witness box, and also having nightmares for several nights.. just feeling that I was disturbed at a different level. So my own awareness of my day to day work was heightened by this process. And, I think for that reason I would look to do something like this again, because I think it improves one's, it sharpens one's processes and makes one more attuned to what your clients go through.

Theme: attributes

The attributes of the work relationship were generally positive with a mutual appreciation of the therapists' frustration with the legal context.

Crown Counsel A expressed trust and respect for the therapists:

> I think in the past I've always had respect for therapists, but I think I can say that this experience has increased that.

> They obviously knew what they were doing.. there is an element of trust involved, ah, certainly involved and it was well-placed.

Crown Counsel B also acknowledged the therapists' frustration with the legal context of the relationship.

> They have a great deal of frustration with the system because when a child is going to court it prohibits them from doing their job to a certain, to a large extent. They expressed frustration.

Therapists A and B expressed positive feelings about the relationship:

> I felt I was really appreciated and respected. That my opinions were given weight.

> I experienced it in a positive way, very supportive from Crown Counsel to our office and then towards me.
>
> I felt good with my working relationship with Crown Counsel. They were available to me. They got back to me if I had questions.. I always felt they were pleasant to me and that was very helpful.. they wanted a working relationship and, therefore, it was easy to work with them.
>
> Anything that they can do to take care of their witnesses they were able to do and willing to do, and I thought that was important.
>
> I felt there was a fluidity to our relationship.
>
> They were very helpful around accommodating my schedule so that I could be available in a time that worked for me. You know, I was really impressed and pleased with the relationship.

The child psychologist/expert witness expands upon the perceptions of the Crown Counsel and the therapists

The child psychologist is the head of the private practice association of therapists involved in this particular case. His comments supported the Crown Counsels' and the therapists' perceptions of the work relationship between the Crown and the children's therapists. The psychologist described the initial clarification of the role of the association of therapists with consideration for the children.

> I was contacted by Crown Counsel's office... explaining that... the children were going to have to be seen and would I be able to see them, and with the idea of testifying in the trial itself if necessary. At that time I was very busy and I explained that I would not be able to see the children myself, but then explained the procedure we'd used before where the children would be seen by people in the practice who had the appropriate training. They would then make the behavioral observations and I would comment on them in a hypothetic situation, and Crown agreed that was a good compromise for them.
>
> There was also another variable there as well because the accused, the perpetrator, was a male, an older male and I felt it wouldn't be appropriate for the children to

> be seen by a male for there might be some.. some transfer of emotions or concerns, or whatever, on the part of the children. So I felt it would be more appropriate for them to be seen by a female and arranged for two of the female therapists here in the office to see the children, who had experienced training in the area of child sexual abuse. And so that's what we did and I had no contact with the children during that time.. that they were being seen. At all.

The psychologist concurred with the Crown Counsels' and the therapists' perceptions specific to the theme that the work relationship was an aid to the work of the Crown Counsels. For example, the therapists could make knowledgeable recommendations to the Crown Counsel concerning courtroom accommodation for the child.

> I think the therapist can make recommendations based on their experience with the child, which is helpful. For example, they can recommend to Crown, and we have done this, that this child is extremely nervous, wants to go through the court process but finds it extremely difficult to think about the idea of having to face the accused, and we can recommend screens, for example, to be used.

The psychologist saw the importance of a clear understanding of the expectations of each profession, a clarity that potentially could avoid frustration, anger, and withdrawal from the process.

> I think in any kind of situation where someone is going to be a witness, it's important that both sides take time to get to know the witness and the lawyer, depending on what their particular roles are, that each side get a clear understanding of what's going to be expected of them. And, there be some time for some thought and some clarification if that's necessary. Because if that's not done then I think both sides can get into a lot of trouble. The witness can get into trouble being asked questions they can't respond to, which make them look less than credible to the court, and Crown ask questions and they don't know what kind of response they're going to get, that can really throw a curve into their arguments or the way that they are trying to present their particular case and then both sides end up feeling frustrated and angry with each other which, of course, leads to the witnesses not wanting to be involved in this process again.

The Crown Counsels and the therapists saw that the work of the therapist was limited, constrained by the legal context. The psychologist agreed, by confirming that

legal context affects the therapists' work by setting parameters of therapy which pose difficulty for the therapist.

> (Parameters of therapy), that's one of the most difficult areas for the therapist. In effect what they are told is that they can do non-intrusive play therapy. In a sense they can be there for the children but they can't initiate, they can't carry things forward as they normally would in a play therapy situation. So, it's basically whatever the child brings up. It can be acknowledged but it can't even be validated. You can't say 'Yes, that's right', or you can make comments like 'That sounds like that was hard', or something like that but very nonjudgemental.. you can't confirm.. (nothing like) coaching or validating the child's perception of their experience because that of course could influence their testimony. So basically what I tell (the therapists) and explain to them, is that they have to do their observations as if they were living video cameras with mike. So, what they see and what they hear is what they report. There can't be any inferences, don't assume anything. If the child says something which you think is important, just write it down, with as much verbatim as possible.. and that's what they did.

The psychologist concurred with the Crown Counsels' and the therapists' perceptions specific to the theme that knowledge was gained within this work relationship and its legal context. The psychologist expanded on the theme that there was a mutual understanding of different yet compatible professional roles and objectives. He commented on the differences between the court system and the therapeutic system, and the difficulties of inadequate preparation when putting the two systems together.

> There really has to be an appreciation that we're really dealing with apples and oranges, in the sense that the court system is almost the total opposite of the therapeutic system. Therapeutic systems are developed in order to be nonconfrontational, nonconflictual, and to process at whatever rate is required. Court systems process at their own rate, the court sets the rate, they are highly conflictual, and there's a lot of difficulties in putting the two together without adequate preparation. (It) really creates problems on both sides.

With reference to his own position in this trial as an expert witness and his own relationship with the Crown Counsel, the psychologist stated the importance of mutual teaching between the therapeutic and legal professionals.

> The reality is (Crown Counsel) don't have expertise in those areas, if they did they wouldn't need me. So it's important for me to have some input into how the questions are phrased so that I can teach them what kind of information they're going to be getting back. Otherwise it just doesn't work. It's like the blind leading the blind.... If there isn't mutual teaching then it's not going to work.... (Crown Counsel) shouldn't (have to become an expert in child development). Their expertise is the law. Any more than I should have to be an expert in the law.. I don't consider myself an expert by any means, and I don't want to, I just have to understand the process and the parameters. And that's what they should be wanting to do too, I think, to be successful. (Crown Counsel) take the time to try to understand how to best use my information and my knowledge.

The Victim Assistance worker adds his perceptions to those of the Crown Counsels and the therapists

Victim Assistance programs are available to assist and support victims of child sexual abuse and their families, in recognition of their special needs. Harvey & Dauns (1993b) describe the Crown-based program involved in this particular legal case:

> They provide general and case-specific prosecution information (to victims and families) and preparation for court as well as referrals for other services. Crown Counsel Victim/Witness Services offices assist Crown Counsel in meeting the information needs of severely traumatized victims who require a high degree of contact and attention from the Crown Counsel office.. Victim Services liaison between professionals and Crown Counsel. (p. 22)

In this legal case, a referral was made to the association of therapists through the Victim Assistance worker. The Victim Assistance worker described his role.

> In most cases I'm the link. Until that interview (with the Crown Counsel) to discuss the evidence for them to be a witness. In most cases, the children, the parents, the therapists, if there's any contact (with Crown Counsel office) it will be through me.

Until the interview "to discuss the evidence for them (the therapists) to be a witness", there was no contact between the therapists and the Victim Assistance worker or the Crown Counsels. The Victim Assistance worker's contact with the therapists was

limited to "one initial contact". He based his referral of the children and families to the association of therapists on his own familiarity and trust of them as professionals. His comments reflect respect for and recognition of their professional expertise. The Victim Assistance worker's referral to the association of therapists was also made while foreseeing the therapists' work as a potential aid to the work of the Crown Counsel.

> One of the things I offered the parents was to put them in touch with somebody that I knew and that I trusted. I also had a second reason for doing that. If, down the road, an expert witness was going to be needed, I wanted somebody that was used to court....The psychologist that testified in this case has testified many times in these cases, he's very good and he knows his stuff. I knew his work, I knew his therapists. I knew him. The nice thing about his office too, is that he has the man power, woman power, person power, to deal with that number of children if necessary. He doesn't have to do it himself. He can still go to court and give expert testimony based on his therapists' work.

The worker did not discuss with the therapists any parameters of their involvement, "because they're professional.. they know their parameters themselves". However, he did acknowledge that the legal context places boundaries on the therapists' work.

> There might be some people I would want to enter into that discussion. Then there are other people I would never refer to because they just refuse to remain in those boundaries. They have to know how not to coach the children. We want someone to work with these people, not become an advocate and cause more grief than good. And you want somebody with credentials, somebody that has gone to school to become a counsellor as opposed to somebody that is out there calling themselves a counsellor. We want somebody to have credentials that, should it be necessary for each and every therapist to be called (to witness), they can stand the test of the court, so to speak. They've got the piece of paper to say 'Yes, I'm accredited'.

The Victim Assistance worker did not see any role played by the therapists regarding accommodation of the child's needs in the courtroom.

> I don't think any of that came from the therapist. Any of those accommodations didn't come from the therapist. They came from the Crown office, myself or

> Crown. That had nothing to do with the therapist. And if it did, I'd be really surprised, that would be unusual.

Appearing at odds with the idea that a work relationship existed between the Crown Counsel and the therapists, the worker thought that it would be "unusual" and "difficult" for the Crown Counsel to have a work relationship with the therapists; he cited busy schedules and doubted any communication regarding the child's therapy.

> I don't know how much interaction there was. I don't suspect there was hardly any between Crown and the therapist. I doubt if there was any.. the only relationship I see between the two is that Crown calls a therapist in and interviews them as to the questions they will be asking in court as witnesses. I am unaware of other communications and I somehow doubt if they would occur with anything with regards to the therapy of the child. I doubt that it does go on that much, because Crown's so busy in most cases. It would be very difficult for Crown to get that involved.

In this particular legal case, the Victim Assistance worker was not aware of the work relationship between the therapists and the Crown Counsels, and he was doubtful that one could exist. The work relationship as described by the two Crown Counsels and the two therapists appears to be "unusual" in this B.C. community, or perhaps in this case, unseen. The present study has made the work relationship visible. As the Victim Assistance worker's role is a "link" between the Crown Counsels and the therapists, it is important to make the work relationship visible to, and understood by, the worker who is a team player in Harvey's & Daun's (1993b) interministry approach to the support and preparation of child witnesses.

The Victim Assistance worker understood that the Crown Counsels would not "get that involved.. with regards to the therapy of the child". It is important to distinguish that an involvement in therapy is inappropriate for the Crown Counsel, but there are

parameters set upon therapy due to the legal context and the expectation that professional therapists understand this.

Few observers attended the several weeks of trial. At the time of the judgement and sentencing, however, there was a great influx of newspaper and television media. Out-of-town newspaper reporters attended, as well as television news crews. Television reporters were interviewing the Crown Counsel, the Victim Assistance worker, and some parents. Caution by the legal professionals with regard to the appeal process was apparent to my legal informant/fellow observer.

I believe the influx of media attention and the appeal process affected my interview with the Victim Assistance worker. The interview with the Victim Assistance worker required significant prompts to develop the conversation. As the media's high profile of the legal case subsided, the subsequent interviews felt more relaxed and the participants were more forthcoming in their responses to my question guides.

The second research question

What are the Crown Counsels', the therapeutic practitioners', and the child's parents' perceptions of the influence of this work relationship on the child witness? Three themes emerged from the interview text of the two Crown Counsels and the two therapists which described their perceptions of the influence of their work relationship on the child.

- **The workers felt that the needs of each child and family were recognized and communicated within the work relationship.**
- **The work relationship aided accommodation for the child in the courtroom.**
- **The Crown Counsels and the therapists found the child's therapy was limited, constrained by the legal context of the work relationship.**

Theme: needs were recognized and communicated

The Crown Counsels and the therapists felt that the needs of the child and family were recognized and communicated within the work relationship.

Therapist B commented on front line professionals' recognition that children have special needs.

> We've begun to recognize that children are special and different and not able to cope with the rules and regulations that we set down for ourselves as adults. Then I think that we need specialists in all the fields.. we've come far enough with knowledge of human development to understand that children are special and they're different. They have special needs and that we've begun to address those is encouraging.

Therapist B considered Crown Counsels' desire to counterbalance the children's trauma. She recognized that the young children need support for their home environment to achieve this counterbalance.

> When you are talking about children of this age, tender age, the families of course are the environment and the medium of their experience of life.. by the time that we actually saw these children they had been through quite a bit of the trauma: police, the astonishment and dismay of parents, all of the anguish that parents were going through.
>
> That kind of trauma needs to be counterbalanced and I think that was one of the primary reasons that the Crown Counsel wanted these children to have therapy.

Crown Counsel B recognized that the children's relationship with the therapist was an avenue to expand awareness of the child's emotional state.

> Because interviews that I have with children are quite artificial. In that, we're saying, 'relax, get to know me, I'm your friend', and then we have to talk about the abuse, in a certain format, for court purposes. So, although they feel comfortable with us after a certain point they're still, they're not entirely comfortable because of what we're doing to them really. So they're often not as forthright in my interview as they would be with a therapist.

Theme: needs were accommodated in the courtroom

The work relationship aided accommodation for the child in the courtroom.

The need of a child for self-empowerment and for "normalizing" court process was addressed by Therapist A with the help of the Crown Counsel.

> (Following a courtroom tour, the child) was just really distressed by the whole thing.
>
> I mentioned to (Crown Counsel) that (the child) had a particular interest in stones, and I brought some to therapy session and (Crown Counsel) said, 'oh you know, you might work with her to pick a particularly nice one that she likes and she could put that one in her pocket when she comes to court.'
>
> That I guess sort of opened the doors for me in making me sensitized to the fact that one of the ways in which we could help (the child) was to make this as simple a process as possible, as normal a process as possible.. It was a message of empowering her to feel stronger.

Feeling supported within her work relationship with the Crown Counsels, Therapist B saw court process as having the potential to empower a child, by giving her

an opportunity to speak and be listened to.

> She felt very bad about the abuse and she struggled with the responsibility on her shoulders for having this happen to other children and having not said anything to anybody. She took a lot on herself.. she told me how she felt about that.
>
> I think that feeling supported, in that it was not an adversarial situation that I was dealing with, then I could, therefore, encourage the children that hopefully this was going to be a supportive and, if everything went well, you know, court had the potential to be a good experience for them in terms of being able to say what they had to say, whatever it was, that was their chance to speak up and to answer the questions, you know, as honestly as they could, and that these people would listen to them.

Interaction with the therapists supported Crown Counsel B's decision to request the screen, to avoid the child's viewing the accused.

> And sometimes the children are saying the same thing to their therapists as they are saying to me. You know, 'Is he going to touch me? Is he going to be able to say anything to me?'
>
> With young children, there's a section in the code that allows the screen to be used, it's not a given, an automatic thing. The Crown has to apply and again they have to call evidence to show that this child's evidence may be affected if they see the accused person, that it may, or will, prevent them from giving a full and candid account of what occurred, just because that person is sitting there and that person has an intimidation factor to them. So again, we call either a therapist or a parent, or whatever, to say what fear is expressed and that they have concern about seeing that person.

For one child, recognition of increased fear of the courtroom led to the Crown Counsels' pursuit of alternative legal avenues to introduce the child's evidence. Crown Counsel B took into consideration the therapists' and the parents' views.

> There was one child in particular in this case that was expressing an increased fear of court. With each interview I had with her, she was expressing more fear. So, in that case, the therapist was consulted as to her opinion about that child's fear of court, as well as if she had perceived that as well in her interviews with the child or her sessions with the child.
>
> And ultimately just prior to court when that fear was extreme and I had concerns about that child giving evidence in terms of the system induced trauma.. I ultimately made my own decision about the trauma it was causing her, but I did

> consider the therapist's view as well as the parent's view... The therapist gave evidence about her observations of the children and what they had indicated to her in terms of their fear of court. As well, the parent was called to say what the child had expressed to her in terms of her fear of court.

Theme: therapy was limited by the legal context

The Crown Counsels and the therapists found the child's therapy was limited, constrained by the legal context of the work relationship. Constraints on therapy by the legal context was a sub-theme in the Crown Counsels' and the therapists' views on their work relationship as it addressed the distinctive work of each profession. It is again recognized, as a main theme regarding the influence of the work relationship on the child. Crown Counsel A summarized:

> Well, one of the concerns, unfortunately, is the therapists had to be very careful about what they discussed with the child, in other words, they were unable to deal directly with any, perhaps emotional behavior manifested by the child in therapy that dwelt upon evidence that they anticipated the child would be giving in the courtroom... I don't want to leave the impression that they weren't receiving therapy, they were, it just, it wasn't in perhaps a more direct fashion that they could have but for the court case.

Parents speak about their own child's and family's experience with the Crown Counsels, the therapists, and court

The influence of the work relationship between the Crown Counsels and the therapists on the child cannot be fully explored without consideration of family perceptions. Parents are an information source about their own child's emotional and behavioral state, and their child's and family's experience of courtroom accommodations and therapeutic involvement.

One overriding theme and three sub-themes emerged from the interview text of the parents that assisted understanding of the influence of the work relationship on the child:

- **Parents felt that each child was unique.**
  - **Each child experienced his or her own fears and anxieties related to the accused and to legal processes.**
  - **Courtroom accommodations for each child were a mixed blessing, seen as helpful but at the same time, difficult.**
  - **Parents had different feelings from one another regarding each child's therapeutic involvement.**

Theme: each child was unique

The parents felt that each child was unique. This parent's quote summarized that perception:

> It's interesting when you're working with kids and something like this, I.. I just realized that after going through this with all these different children, each child is so different. Each child has their own little things that they like, or dislike or comfortable with or not comfortable with and you know, nobody knows those children like their parents and I really think it's important that each child just be dealt with individually, you know. Because you can't just go through them all, just line them up and go through them all like they're the same. You know what I mean? They're really.. they all have their own little personalities and they all have to be dealt with, one at a time. I think that's really important though.

Sub-theme: the individual child's fears and anxieties

The parents spoke of each child's fears and anxieties related to the accused.

> (The child) still has concerns and that about (the accused) killing her. That still is something that comes up in counselling and at home, you know in nightmares, and she brings it up verbally. Because I think, something that she had mentioned to me was that if she had ever told, that of course, there would be all these consequences to them and I think that was the scariest thing.. is realizing that, to a child, it's something that they can't rationalize that oh, he's just saying this to be threatening, that's he's saying this and he must mean this.. he was in that controlling position,

> so why wouldn't they believe that he had that influence over them for that period of time so their concerns were great over that.
>
> (The child) went into a type of denial thing where she would say, 'Oh, are we talking about (the accused)? Good-bye.'.. You know, (the child) will deal with it by not dealing with it. If it's unpleasant she doesn't want to talk about it.
>
> There's pictures of (the accused) on the front page of the newspaper and I don't want him to see those.. I don't want to stir up any more bad dreams.. I'm afraid if he saw a picture of him then, maybe he's going to be up in the night or... He used to come down in the middle of the night.. he just couldn't go back in his room.. fearing that we (the parents) were gone.. fearing monsters and just afraid to be alone.

The parents also spoke of each child's fears and anxieties related to legal processes.

> As soon as we would try to discuss things with (Crown Counsel).. as soon as we stepped into his office and (Crown Counsel) would start speaking to him, it was very difficult for (the child).. because it would bring back memories he didn't want to talk about.
>
> (The child) would express that he was uncomfortable (going to court)... He would say 'I don't want to go. I'm scared. I'm shy. I'm scared. I don't want to go there.'... It was fairly intimidating.
>
> It's not like when you say 'brush your teeth' and they say 'I don't want to brush my teeth'. It's kind of this look of despair, and you could just see, it's just a kind of look that you've never seen before and it was just the way that he held on to (the parent's) hand and kind of twisted around like 'I don't want to do this'. You could really see it in his face.

Each child's fears and anxieties as related to the accused and to legal processes, support the parents' overriding theme that each child was unique. Parent statements also support that there are individual child and family concerns.

Sub-theme: courtroom accommodations were both helpful and difficult

Courtroom accommodations for each child were a mixed blessing, seen as helpful but at the same time, difficult.

Parents described the experience of the use of the screen for their child in the courtroom.

> He didn't know that (the accused) was behind the screen, he didn't know he was in there at all. He just.. we just.. we didn't know how he would react. We didn't want to make it any worse or any more uncomfortable than it already was...
>
> Now you know (the child)'s really young and he just sat there and he was really focused but I think if he was any older.. he might have been apt to have just got a good peek behind that screen.. he was curious to know.. he was wondering.. As good as the screen is, you know, it's still not foolproof.

Parents asked for a support person to accompany their child at the witness box. The experience, although the child was not alone, also proved to be difficult.

> (Crown Counsel), (father), and I (mother) were in the room and I said 'there's got to be a way. You know, there's got to be a way that somebody can just sit with him.'...
> So we were in the room when the Crown said 'you can do this but this is what you're going to have to do'. Then (the father) entered the courtroom without (the child) for just a brief moment while the Judge reminded him again not to move his face or his body and then they went in together.
>
> I (the father) was told not to coach (the child) in any way, I was not allowed to say anything. And just try not to influence any of his remarks and comments and answers...
> And every time that (the child) would look at me and look for a response, look for something, I couldn't really give it to him in a normal way that we would interact. That was very difficult, it was very difficult. It was not very pleasant, that's for sure.. I was, I'm not sure if the word is sad or a little upset for (the child) just to have to go through that and to have to be there and it was very hard, very hard, just to have to sit there, especially being rather emotionless and try to support (the child) as much as I could and, you know, being unable to really do very much. That was very, very difficult.

A parent described her child's experience that supported the Crown Counsel's decision to not call the child into the courtroom, and to introduce the child's story as evidence through the legal avenues allowed by *Regina v. Khan* (1990).

> We'd gone to see (Crown Counsel) at the Crown Counsel office prior to and had been brought in there and (the child) had been acting out the second she knew where we were going she had problems. She wanted to go home and get her blanket. She wanted, I don't know, to go anywhere but there. So getting her in there was fun because it was like 'I won't go in the elevator' fine, so we would get her in the elevator... Well then once we got her in there then she didn't want to go in the room then she didn't want to be left in the room. It's been very hard. She started having problems. She started having nightmares again about (the accused). I think her experience at the preliminary when the screen slipped and she saw him, that really scared her. Because I think she was led to believe that she would be a lot safer and that she would not be in a position like she's been put in and to have that happen I think it was quite unfortunate. That really started scaring her. We brought her into the meeting and she didn't want to talk about anything. So I think, this is great, and you can't make a child talk about things that they don't want to talk about and so we'd left and we got home and she started getting sick, like physically sick, throwing up, saying 'I can't go to school', and this is a child who has a hard time sleeping, went straight to bed and slept all night. Got up, got sick, had bad dreams, got up the next morning, didn't want to go to school, didn't want to go anywhere just wanted to sleep it away, I assumed, so that started causing a lot of concern. So, I brought her in to the counsellor's for her appointment. She voiced a lot of concerns about him and that she was still scared that he was going to kill her and everything else so they just figured, (Crown Counsel) said 'No. We're not putting the child in that position'.

The Crown Counsels and the therapists viewed their work relationship as an aid to accommodating the child's needs in the courtroom. Recognition of the child's emotional state and specific fears of the accused and the legal processes, affected the Crown Counsels' decisions as to the appropriate accommodation for the child. Parents perceived adjustments in the courtroom setting for the individual child to be both helpful and difficult. While those adjustments attempted to address the needs of the child, they also posed some difficulties to the individual child and family. These expressions supported the parents' overriding theme that each child was unique.

Sub-theme: different perceptions of therapeutic involvement

Parents had different feelings from one another regarding each child's therapeutic involvement.

The parents of one child found their child's and family's therapeutic involvement helpful:

> (The child) was going through a lot, a lot of emotional problems.. I wouldn't say emotional problems so much as we wanted somebody that knew how to deal with it more than we did, to look at it and find out what was going on with (the child). It's such a hard thing, where you start and how you deal with it. It's extremely difficult.
>
> (The child) was comfortable being there. I think it did bring (the child) around a lot.
>
> It was a fairly playful and casual atmosphere, with their techniques and that, so it wasn't too traumatic for (the child). We'd go there and it was never a problem, going to see her.
>
> There was so much when (the child) was going to the therapist, I think that sort of helped.

Another parent expressed her difficulties in being consistent with therapeutic involvement.

> At that time it was difficult because you have to schedule around not just one schedule but quite a few and to drive all the way (to another town). For one, it was very expensive because we didn't get compensated for anything to do with like gas or mileage or anything else to bring the kids in and it became quite an expense. And, that was a really difficult part and then with my own situation... like there was a period of time when we never had a vehicle so we couldn't get in. And then we moved and that would bring up its own problems so there was a lot of gaps between the counselling due to that. Trying to schedule it, and like I said both kids, so we would go in and I'd be, like, there for two hour sessions while I would sit in the waiting room with one for an hour while one was in with the therapist and then at one point we tried two therapists but one had moved, one had left that location, so it was really hard trying to be consistent with counsellor.

One parent saw her family's therapeutic involvement as frustrated by the legal context.

> I would feel that it was very frustrating for both the therapist, (the child), and myself. Because up until the court case they were in an informational gathering cycle where all they can do really is not any healing to do with helping overcome this, it's more information that they gather from what comes up. So it's not like (the child) can heal from this at all. And the therapist, it's almost like she's got her hands tied behind her back because she wants to reach out and help the children and legally she's not able to do that. You know, she has to deal with the facts and what's coming out and, like I said, until it goes to court..

Parents' perceptions of therapeutic involvement supported the idea that therapy can be constrained by the legal context in which the work relationship between the Crown Counsels and the therapists occurred. One parent expressed her frustration that therapeutic constraints inhibited healing work for her child. Individual parents found therapy to be helpful in addressing the emotional and behavioral state of their child; another parent's individual family circumstances made consistent access to the therapy difficult. These parents' expressions support their overriding theme that each child was unique, as was each family's circumstances which also affect the child's well-being.

Discussion

This study was guided by a three part conceptual framework to describe the work relationship between the Crown Counsels and the therapists in a single legal case, in one B.C. community. The first concept identified the mutual responsibility of the legal and therapeutic practitioners: "the best interests of the child". The second concept identified the structure of therapeutic responsibilities: "the parameters of therapeutic support". The third concept, "descriptors of relationship", suggested a means to address the conflicting legal and therapeutic interests. Supported by current literature, each of these concepts is discussed in this chapter in relation to the study's findings.

I found it difficult to keep the discussion distinctive within each of the three concepts. The concepts, like the themes, are interconnected in describing the work relationship as a whole. Under each concept heading, with some necessary overlap, I attempted to release the concept from the others temporarily for the purpose of understanding the parts of the work relationship.

The best interests of the child

Discussion of this first concept, "the best interests of the child", concludes that: The Crown Counsels and the therapists assumed mutual responsibility for the protection and accommodation of the children in the court; there were distinct roles within the work relationship addressing this mutual responsibility; the work relationship influenced the work of each profession in addressing the needs of the child.

Child protection is a mutual responsibility of the legal and therapeutic practitioners. While it is the role of the therapist to assess the clinical state and needs of

the child, the legal practitioners also need to be sensitive to those needs (Goodman et al., 1992):

> Given that the legal system is likely to be dealing with many child victim/witnesses who evince clinical disturbance or who are just on the border of the clinical range, sensitivity by the legal system to their needs seems justified. (p. 115)

In undertaking the present study, I observed and described the physical separations and divisions of the courtroom environment. Similarly, the study's findings reveal distinctions within the work relationship itself. Description of the work relationship from the perspectives of the study participants illuminates the distinct roles of the therapeutic and legal practitioners in their joint responsibility for protection of the child.

The Crown Counsels and the therapists mutually respected and recognized each other's expertise and responsibilities. This theme recognized the distinctiveness of the two professional roles within the work relationship. Within this theme, two sub-themes described the influence of the professional interaction on the work of each profession. The work relationship functioned as an aid to the work of the Crown Counsel; the work of the therapists was limited, constrained by the legal context. Each of these sub-themes will be addressed as they impact on the first concept, "the best interests of the child".

Recent research has shown that child witnesses suffer emotional distress which varies according to individual circumstances and case differences (Goodman et al., 1992). Melton (1992) found the findings of Goodman et al.'s research to support a case-by-case determination of the need for special court procedures in child abuse cases.

It is the Crown Counsels' responsibility to request, with supportive arguments, the use of special courtroom accommodations and procedures for the individual child. The parents in this study confirmed that each child had their own fears and anxieties related to

the accused and to legal processes. Within the work relationship, the therapists communicated each child's fears and anxieties to the Crown Counsels.

The Crown Counsels recognized that the therapists were more aware of, or "in tune with", the child's behavioral and mental state. Both of the Crown Counsels felt that their work was made easier through interaction and communication with the therapists. The therapists' expertise provided the Crown Counsels with knowledge of the child's state of disturbance. This knowledge was used by the Crown Counsels to present courtroom arguments for special accommodations and procedures for each individual child.

As long as our society accepts that children be witnesses in courts of law, the moral obligation to their best interests will compete with the fundamental legal principle of the rights of the accused. It was observed at this criminal trial that accommodations for each child's needs were a matter of legal argument. Crown Counsel B described "the best scenario" in a discussion of the competing interests of the accused and the child:

> It's just the legal principle that the accused has the right to see their accuser and that's why the screen is an issue. It just looks stronger if they are able to do it on their own. It's sort of like if they can sit there without a screen, that's the best scenario; if they have a screen, that's second best; if they have a screen and someone sitting with them, that's third best; and you sort of progress down the line to where they don't give evidence and you go by way of voir dire. But again, it's just a perception.

Schmolka's *Summary of Department of Justice Evaluation Research Findings* (cited in Horner, 1993) found, despite the increasingly young age of children testifying (most sexual abuse victims are under 12 years of age; 15–22% are under 5 years), screens blocking the child's view of the accused were rarely used. The principle of "the best scenario" and the perception that the witness looks stronger if exposed may account for the rare use of the screen. In this legal case in one B.C. community, the Crown Counsels

and the therapists viewed their work relationship as an aid to accommodation of the individual child's needs in the courtroom.

The Crown Counsels recounted to the Judge the therapists' and the parents' comments of the child's behavioral and emotional state in successfully arguing for the use of the screen and the presence of a support person at the witness stand for individual child witnesses. Special court rules of evidence for voir dires and exceptions to the common-law hearsay rules were also employed to accommodate individual children in this instance and even take their evidence without their appearance.

The Child Sexual Abuse Provisions of the *Criminal Code* and *The Canada Evidence Act* (Formerly *Bill C-15*), (Canada, 1988) allow children the use of the screen if the Judge forms the opinion that it is necessary in order to obtain a full and candid account from the child witness. The provision is intended to alleviate situations where children were unable to testify due to trauma experienced by viewing the accused. *Bill C-126* (Canada, 1993) contains amendments to allow children under 14 years of age to have a support person present and close by while testifying, upon order by the Judge.

To accommodate young children, the Supreme Court of Canada made an exception to the common-law hearsay rules. In the case of *Regina v. Khan* (1990), the court admitted the evidence of a three year old child without the child testifying by allowing the mother to state what the child had told her, because it satisfied the requirements of evidence in court—necessity and reliability. In the present study, the Crown Counsels requested accommodation of the evidence of certain child witnesses by arguing the principles of *Regina v. Khan* (1990). The Crown Counsels' decision was influenced by communications with the therapists regarding the extreme trauma of the

individual child and that child's inability to testify in person or by other means.

The influence of the work relationship between the Crown Counsels and the therapists on the child witness is evident in the courtroom accommodations and the legal argument of the Crown Counsels. The parents had mixed feelings about the accommodations. Parents felt that, while helpful, the accommodations posed some difficulties to the individual child and the parent. The accommodations were seen as "not foolproof" and "very difficult".

Several of the themes identified separately in the study's findings intertwined in the legal response to the individual child's needs. In summary, the Crown Counsels viewed their work relationship with the therapists as an aid to their legal work in addressing courtroom accommodations for each child; parents confirmed that their children had their own fears and anxieties with respect to viewing the accused and to legal processes; the work relationship communicated knowledge of each child's needs and influenced the decision-making of the Crown Counsels to pursue particular courtroom accommodations and procedures (the screen, a support person at the witness stand, exception to the rules of hearsay evidence).

The *United Nations Convention on the Rights of the Child* (1989) states:

> In all action concerning children, whether taken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration. (Article 3)

Not taking available action may also fail the best interests of the child. Unfortunately, within the work relationship, there were restrictions imposed by the legal context that limited therapeutic attention to the fully assessed needs of the child. The trauma of the sexual abuse itself could not be dealt with directly, leaving one therapist feeling that after

court she would have to go back "at the eleventh hour". The therapist felt handcuffed; some therapeutic work could not be done for fear of contamination issues. The Crown Counsels recognized within the work relationship that therapy was "on hold"; Crown Counsel B acknowledged the therapists were prohibited to a large extent from doing their job. Both the therapists and the Crown Counsels agreed that the therapy of the child was limited, constrained by the legal context. This view was also supported by one parent's response in relation to the second research question regarding the influence of the work relationship on the child. In my own opinion, it is not in the best interests of the child that the legal processes restrict therapeutic concerns which are then compounded by systemic trauma resulting from court processes.

In relation to both research questions, the finding that the therapy of the child was limited, constrained by legal context, recognized two interconnected avenues of therapeutic concern for child witnesses: the system-induced trauma from court involvement, and clinical disturbance arising from other factors. Goodman et al. (1992) found that child witnesses' disturbance may result additionally from factors other than the child's involvement in legal processes. Such factors might include the sexual assault itself, physical assault, emotional assault, relationship with the accused (Finkelhor, 1988), and the psychological adjustment of the child and family. As a result of research at the London Family Court Clinic in Ontario, Sas (1993) was able to identify those children who would require more intensive intervention.

Harvey & Dauns (1993a) agree that a child's needs may go beyond support and preparation through court processes, thus requiring therapeutic care.

> Children who have been victims of sexual assault have needs that go well beyond those of the justice system. They need immediate counselling and other assistance. The legal dilemma comes in determining whether the child's emotional needs may be met without contaminating the evidence. The child must not be left to deal with the issues arising from the abuse alone. (p. 132)

The above "legal dilemma" to which Harvey & Dauns refer is of therapeutic concern. While receiving therapy within the parameters set by the legal context, the fully assessed therapeutic needs of some children in this study had been "on hold" for more than two years; for some of the children in this case, two years represents half of their young life-time. Within the work relationship examined in the study, trauma resulting from the child's involvement in legal processes could be addressed by the therapist, as could behavioral management. To address other factors would potentially have addressed evidence and carried the risk of imperiling the legal case. It does seem apparent that the therapist is the professional who is best able to determine how the child's needs may be met; the Crown Counsel, in consultation with the therapist, is the professional best able to determine the degree to which the required therapy format may risk imperiling the legal case. The conflicting therapeutic and legal interests (meeting the individual child's needs and the risk of unsuccessful prosecution) are further discussed in the section of this report, Implications for policy and practice.

The parents' views should be noted in relation to the influence of the work relationship on the child regarding therapeutic involvement. Parents had different feelings from one another. Two parents found therapy uncomplicated and helpful with behavioral management in the home. The parent whose child suffered extreme trauma found the limitations placed on therapy by the legal context to be frustrating. That family struggled daily with the child's severe disturbance. Constraints on therapy were not in this child's

best interests. Sas (1993) found that some child witnesses, for varied reasons, function "in the clinical range of depression, anxiety, personal vulnerability, and feelings of helplessness", and that the most severe abuse was "associated with lingering symptoms that interfered with the children's abilities to get on with their lives" (p. 204).

Pogge and Stone (1990) recognized the inherent tension for therapeutic practitioners who collaborate with the legal system in child sexual assault allegations.

> Although practitioners may vary in their willingness to collaborate with members of the social service and legal systems, once having made the decision, however reluctantly or eagerly, to do so they must then encounter the issues arising from the tension between the various responsibilities accepted and the limitations that reality sets on current clinical practice. (p. 358)

The therapists in this study agreed to the constraints placed on their usual therapeutic formats by the legal context, and subsequently encountered the limitation of not meeting the best interests of some children.

The subservience of the scope of therapeutic action to legal requirements is further discussed within the next two concepts that guided the study: parameters of therapeutic support and descriptors of relationship.

The parameters of therapeutic support

The discussion of the second concept, "the parameters of therapeutic support", concludes that: The therapists in this study agreed to the parameters of therapeutic support set by the legal context; this agreement allowed the work relationship to address accommodation and protection of the child in the court; the parameters of therapy placed the best interests of some children subservient to the interests of the prosecution.

In the present study, the legal context of the work relationship clearly set the

parameters of therapeutic support and imposed a structure on the therapists' responsibility for acting in the best interests of the child. The therapists accepted the parameters for a special client group, child sexual assault witnesses, because the parameters were set to avoid contamination and lead to an approved goal (prosecution of the offender).

The therapeutic parameters included avoiding any suggestions or leading questions; acting as a "sounding board" while gathering information; avoiding any discussion of aspects of the case beyond the child's own personal knowledge; not associating troublesome behaviors directly to the sexual assault.

A theme in this study's findings was the exchange of professional knowledge within the relationship. Two sub-themes emerged from this finding: first, the Crown Counsels and the therapists felt they gained a mutual understanding of their different roles and objectives; second, they viewed this knowledge as "building blocks" for future work. The therapists worked within the structured parameters of therapy to avoid contamination of evidence. The Crown Counsels orchestrated the fit of the therapists' knowledge and information into the trial context. One result of the compromise of the therapists' usual role and objectives—through their agreement to the therapeutic parameters and the goal of prosecution—was support for the courtroom accommodations and procedures which addressed the individual child's fears and anxieties and ability to communicate the legal complaint.

Within the work relationship, the Crown Counsels became more aware of the limits placed on therapy by the legal context and the impact of those limitations on the child witness. The therapists became more aware of the work efforts of the Crown

Counsels to find "connecting points" between the two professions. While the objective of Crown Counsel is clearly prosecution, the usual objective of the therapist is the well-being of the individual child. This moral interest was shared by the Crown Counsels; however, their own objective was "the narrower issue" of the child's ability to testify in the judicial process. Given the agreed upon goal of prosecution, Crown Counsel A identified the connection between the two professional points of view—the establishment of the legal basis for courtroom accommodations and procedures which would allow a full and candid account by the child witness. Fear and anxiety (issues assessed by the therapists) impact negatively on the child's best interests and also impact negatively on the child's ability to communicate the complaint. Parents concurred with the need for accommodations and procedures to address each child's own fears and anxieties related to the accused and to legal processes.

The concept of "the parameters of therapy" again highlights the different interests of prosecution and the individual child witness. As a lawyer, the Crown Counsel takes an oath to do the utmost for the client. The child is not the Crown Counsel's client. Crown Counsel serves the Attorney General. Therefore, the court process of prosecution is paramount. In child sexual assault cases, this contributes to the tension between the work responsibilities of the legal and therapeutic workers—the best interest of the child may conflict with the usual demands of the legal prosecution.

Examination of the parameters of therapeutic support for the child witness reveals the different interests in this criminal case of child sexual assault. These different interests

are stated by the Honourable Madam Justice Beverley McLachlin of the Supreme Court of Canada (1992).

> There is the interest of society in securing the conviction of those guilty of criminal offences. There is the competing interest of society in a fair trial and the right of accused not to be declared guilty unless so proved beyond a reasonable doubt on reliable and safe evidence. And, overlaid on these concerns, there is the interest of the child witness, often the victim, whose trauma must be minimized. (p. 731)

The parameters of therapy set by the legal context interferes with the needs of some child witnesses for more intense therapeutic intervention. In the present study, some children suffered more than others from the parameters set on therapy. The therapists experienced the limitations of the parameters for those children, while aiding in the protection and accommodation of the child witnesses in the court. The parameters of therapy set by the legal context reflect the common goal of prosecution shared by Harvey (1992), and the negative impact on the well-being of some children.

> In order to hold child molesters responsible for their conduct, children must be brought into this forum that is designed for adults. The higher the number of children coming forward, the more the system is encouraged to accommodate the child and complainants of the future. However, some children of the present may suffer while the system tangles with the prospect of change. (p. 5)

Davies and Westcott (1995) identify two streams of reform with the purpose of facilitating children's testimony in court:

> (a) trying to prepare children so that they are better able to cope with the adult demands of the courtroom (the empowerment tradition) and (b) seeking to amend and adjust legal procedure to try to take account of the particular difficulties experienced by child witnesses (the protection school). (p. 201)

The authors conclude that legal traditions have dictated the choice made by adversarial court systems. They see the protection approach as system-centered, and the empowerment approach as child-centered. They pose two questions: Is one approach

more effective than the other, both for the child's well-being and to elicit better evidence? Are the two approaches complementary or distinct?

Davies and Westcott (1995) call for more court-based research to support existing findings regarding approaches to child witness preparation and support. The present study invites "naturalistic generalization" (Stake, 1995) or how another case might fit with this one. The study is supported by methodological rigor and, occurring within its legal context, is combined with elements of forensic realism. While recognizing that the children's therapy was limited by the parameters of therapeutic support, this study, nevertheless, reveals a connection of the two distinct approaches through an interdisciplinary work relationship—if the agreed upon goal is prosecution.

The Crown Counsels and the therapists in this study found a connection between their different roles and objectives. Exchanging knowledge and gaining a mutual understanding of their professional differences was a route to identifying "connecting points" between Davies's and Westcott's system-centered and child-centered approaches. However, is it appropriate to use the term "child-centered" when there is restricted action upon "a primary consideration" for the best interests of the child? Parameters of therapy in this study were agreed upon to facilitate the children's testimony in court, supporting the legal and therapeutic workers' goal of prosecution. Unfortunately, this approach failed to meet the therapeutic needs and best interests of some of the children. Perhaps Davies's and Westcott's "two streams of reform" are best described as *both* system-centered.

One therapist's perception of "a melding, a sort of marriage" of the therapeutic and legal roles within the work relationship compares to a cooperative structure for child

witness preparation proposed by Harvey & Dauns (1993a). Harvey and Dauns first outlined a team approach to child witness preparation that merges two models, both focused on the trial experience. The team is structured and spearheaded by the Crown Counsel, again recognizing the dominance of the legal perspective to existing relationship models or approaches. Harvey & Dauns describe their two models:

> Two models of child witness preparation are emerging in Canada—the mental-health-support model and the advocacy-support model. The former involves a systemized effort to orient the child to the trial experience while teaching relaxation and coping skills. The second focuses on legal advocacy to ensure the child receives the accommodations sanctioned in the legislation and case law. (p. 53)

Harvey and Dauns subsequently published the *Child Witness Preparation Manual* (1993b), an integrated Ministry team approach to child witness preparation. The manual's guidelines are to minimize any potential trauma to the child, to maximize valid information from the child and other witnesses, and to preserve the integrity of the preparation process. The Honourable Madame Justice Beverley McLachlin of the Supreme Court of Canada (1992) states the child witness's trauma "must be minimized" (p. 731); Harvey's and Daun's (1993b) guideline is also to "minimize any potential trauma to the child" (p. 53)

The Honourable Madame Justice describes the child's interests as "overlaid" on the interests of prosecution and the rights of the accused. She falls short of calling the child's interests the primary concern, because it is not entrenched in the law and the justice process. Concurring, Harvey's and Daun's guideline to "minimize" any potential trauma to the child is qualified by the other two guidelines—to maximize valid information from the child and other witnesses and to preserve the integrity of the preparation process. The

later two guidelines support "the best scenario" (the least support to accommodate the child in the courtroom and still have the child able to testify) and the overriding interest of prosecution without risk of contamination of evidence.

The *Child Witness Preparation Manual* (Harvey & Dauns, 1993b) recognizes the possible need to involve a mental health worker to assist in support therapy, deal with issues outside the Crown Counsel's expertise, monitor the child's well-being, and provide insight into the child's communication abilities. The therapists in the present study fulfilled the role of the mental health worker described by Harvey and Dauns. However, the parameters of their role were set by the legal context—parameters that failed to meet the fully assessed therapeutic needs of some children. Harvey & Dauns (1993b) caution all those involved with the legal case not to put "the support process itself into suspicion and the weight of the complaint into jeopardy" (p. 12). This is still a model controlled by the Crown Counsel and focused on the prosecution goal of the justice system.

The challenge for therapists to the concept of "the parameters of therapeutic support" is the development of adequate therapy formats acting in the best interests of the child, with a low risk of imperiling the legal case. However, for those children who suffer extreme trauma and who have therapeutic needs beyond court support and preparation, there is a need for early assessment and immediate legal intervention to allow alternatives to the child's direct testimony—in general, challenging the usual evidentiary requirements of the court system. More research is required to meet this challenge, addressing both disciplines of law and therapy and demanding an interdisciplinary approach.

Descriptors of relationship

The third concept, "descriptors of relationship", is the last in the three part conceptual framework that guided the present study. This concept suggested interdisciplinary relationship as a means by which the conflicting interests of the legal and therapeutic disciplines could be addressed. The present study confirmed the conflict between the collective protection of children through prosecution and the well-being of the individual child witness. In addition, an important finding of this study was the exposure of power as a descriptor of the work relationship. As a result of this finding, the discussion will focus on how and why power acted as it did in the work relationship between the Crown Counsels and the therapists. Kelly (1995) states:

> The concept of power is indispensable in analyzing conflict and its resolution, yet it and related concepts of empowerment and power imbalance are rather slippery to pin down. Power is not a characteristic of a person, exercised in a vacuum, but is instead an attribute of a relationship... Power is the measure of the degree to which one can get one's needs or goals satisfied. (p. 87)

According to the criteria outlined by Bruner (1990), the work relationship in the present study was collaborative in its agreement to a set of common goals and directions (prosecution with courtroom accommodation of the child) and the shared "responsibility for obtaining these goals, using the expertise of each collaborator" (Bruner, 1990, p. 6). According to Harvey & Dauns (1993a), the work relationship was a "merging" of their two (legal-system focused) approaches. However, the collaborative or cooperative work relationship failed to resolve the acknowledged conflict between legal prosecution and the needs and best interests of the individual child witness. More importantly, this study's findings clearly recognize the dominance of the legal system present in the work relationship between the Crown Counsels and the therapists. This study reflects Horner's

(1993) position that the law's "overriding interest" is prosecution and that the individual child's needs and best interests are not entrenched in the law although morally persuasive (Turner & Uhlemann, 1991). This discussion will examine the role of power in the work relationship and the lack of resolution of competing interests when there is a power imbalance.

The dominance of legal concerns does not allow for an even balance of therapeutic and legal relationship. The Crown Counsels and their legal work responsibilities orchestrated and dominated the work relationship. It is interesting to note an imbalance of power has always been an issue in the area of child sexual abuse (Finkelhor, 1986). Power causes victimization. The power of the legal system has further victimized children (Ginkowski, 1986) by the systemic trauma of court processes (Sas, 1993) and the imposition of limited therapy formats for additional needs other than court support and preparation (Goodman et al., 1992). Power continues to haunt the area of child sexual assault, in the legal and therapeutic response to the assault and to the individual child witness's needs and best interests.

The discussion of power within the work relationship described in this study follows the current views on mediation process by Kelly (1995).

> Throughout the mediation process, mediators must observe how power is asserted, note whether and how the assertion tilts the participatory and negotiating power of the parties, and correctly diagnose the factors or circumstances operating at that moment, for that dispute. (p. 88)

The power in the work relationship between the Crown Counsels and the therapists is asserted through the constraints placed on therapy for the individual child by the legal context. The constraints tilt the participatory power of the therapists within the

work relationship. Their participation shifts from meeting the fully assessed needs of the child to the collaborative/cooperative effort to protect the child (and children in general) through prosecution and accommodation of the child in the courtroom.

Four factors creating the power imbalance within this work relationship are: the participatory power of the therapists was limited by the dominance of legal interests, causing a shift from their usual role and objective focused on the well-being of the individual child; fear of contamination of evidence was a powerful operative factor within the work relationship; the historical dynamics of the conflicting interests of the therapeutic and legal systems in our society set the "pattern of domination and deference" (Kelly, 1995, p. 90); the opportunity to be heard contributed to the therapists' positive feelings about the work relationship and a positive view towards repeating the experience in the future. Each of the four factors is briefly discussed in relation to the current views of Kelly (1995).

The law is dominant in our societal structure. The position of the law is most powerful and professionals are trained to recognize the dominance of the law in disputes. Understandably, both the therapists and the Crown Counsels deferred to the legal position regarding child witnesses—that the need to obtain a successful prosecution overrides the needs and best interests of the individual child. Addressing the fully assessed needs of the individual child in therapy was not a part of the work relationship because fear of contamination was a powerful factor.

This study has given an historical overview of therapeutic and legal involvement in the area of child sexual abuse in general and in the area of child witnessing in particular. The historical dynamics of the conflicting interests of the legal and therapeutic systems set

the "pattern of domination and deference" (Kelly, 1995, p. 90) that is evident in this work relationship. The Crown Counsels' and the therapists' commitment to the mutual gain of protection through prosecution and accommodation of the child witness in the courtroom—was a reflection of an assumed goal to prosecute the alleged offender.

The Crown Counsels and the therapists described positive attributes of their work relationship, while mutually recognizing the therapists' frustration with the limitations placed on therapy by the legal context. This factor of positive feelings was connected to the individual workers' abilities to communicate, and their moral awareness of the child's needs and best interests. The work relationship gave the therapists the opportunity to be heard on the issue of therapy limited by the legal context, but their own interests were not considered equal to the interests of the legal practitioners. This factor resulted from an imbalance of power. Although the therapists felt "good" and "positive" about their work relationship with the Crown Counsels, the two parties did not have an equal sense of entitlement (Kelly, 1995) within the work relationship.

The knowledge base of the therapists regarding the law in child sexual assault cases was limited prior to this case. However, both the Crown Counsels and the therapists felt that knowledge was exchanged through their work relationship. The knowledge gained was viewed as "building blocks" for future work. One therapist felt she had learned to be a better witness and the other therapist expected other Crown Counsels to work with them in the same manner in the future. Unfortunately, the same manner would contribute to a status quo of legal dominance within future work relationships. In contrast, similarities between the two professionals' intelligence levels, abilities to communicate, gain and apply new knowledge (Kelly, 1995), would be more beneficial to

the exploration of change and a balance of power in future work relationships. How a more equal balance of power would play itself out in the work relationship between the Crown Counsels and the therapists is explored in the following sections of this chapter, Implications for policy and practice, and Advocacy.

Implications for policy and practice

In this section of the report, I will examine the conflicting therapeutic and legal interests of meeting the individual child's needs and the risk of unsuccessful prosecution. This conflict created the tension between the work of the Crown Counsels and the work of the therapists. My purpose in this area of the discussion is to present my own views on: the need for a shift in the legal perspective and approach to child witnesses that will share core values related to children; the current perspectives of both the legal and therapeutic workers in relation to their distinctive job responsibilities and their ability to carry out these responsibilities when working with child witnesses; the potential for work relationships between Crown Counsels and therapists, within their communities, to address the special needs of each child witness. In addition to these views, there is a brief discussion concerning multidisciplinary education, involvement of parents' perspectives in education forums, and education specific to therapists.

The Crown Counsels and the therapists from one B.C. community recognized the tension in their work relationship. The individual child's therapy was limited, constrained by the legal context; successful prosecution conflicted with effective therapy for the individual child. Within the context of this study and the existing literature, the legal approach to the best interests of the child is a collective one: protection of children in

general, by deterence of offenders through prosecution. The central concern of the therapist should be the protection and well-being of the individual child. I firmly believe that the persistent conflict between prosecution and the well-being of the individual child calls for a reorientation of how our legal system approaches the use of child witnesses.

This study's findings suggest policy that encourages a shift in the legal perspective in cases of child sexual abuse—away from prosecution for collective protection to prosecution with a truly child-centered approach to individual child witnesses. The need is for legal practitioners to shift their core values regarding children to the well-being of the individual child. This shift in legal perspective will encourage a sharing of power within the work relationship between Crown Counsels and therapists. While the final word on accommodation requests to the Judge would not rest with the therapist, the Crown Counsel would be obligated to work on the basis of information and judgement of the therapist and adjust the prosecution's case accordingly.

A basic agreement on core values regarding children is required to change the status quo of "overriding" (Horner, 1993) the individual child's best interests. This agreement will allow the Crown Counsel's work practices to shift away from "the best scenario" or chances of conviction being linked to acceptable levels of trauma or postponement of effective therapy. The principle of "the best scenario" conflicts with the best interests of the child; progressive accommodations focus on the least help that the child can receive and still be present in court. "The best scenario" hinders the child's ability to answer questions (Goodman et al., 1992), thus undermining the purpose of the trial to discover the truth (Myers, 1992), resulting in the justice process hindering its own purpose.

From the present legal perspective, some level of trauma to the child witness from court processes is acceptable if the child is able to give direct testimony and communicate first-hand evidence. Research from the London (Ontario) Family Court Clinic (Sas, 1993) has concluded that most child witnesses recover to degrees in the long-term after court. This conclusion supports the use of child witnesses and the acceptance of trauma to the individual child if the child is able to testify in the court with minimal accommodation. When the child is able to appear in court and communicate the evidence with minimal departure from the usual (adult) standards of court, the Crown Counsels perceive themselves as best enabled to do their job. The proposed shift—from prosecution for collective protection of children to prosecution which meets the needs of the individual child—will also shift the risk-taking of legal workers, from risking the child's well-being (through "the best scenario" principle) to risking a more difficult prosecution.

Prosecution is the work of the Crown Counsel and the proposed shift may threaten their effectiveness. The principle of "the best scenario" would be challenged by the Crown Counsels with the therapists' input. Accommodation requests for children would become the norm rather than the exception. Some prosecutions would be more difficult as the legal system struggled with the change and acceptance of the child witness's assessed need. However, the judicial system should accept the challenges to the Crown Counsel's effectiveness while meeting the needs of the individual child, rather than continuing to accept the current sacrificing of some children through restrictions on needed therapy and minimal accommodations in court.

The therapeutic perspective which best enables the therapist to do his or her job is identification of the individual child's needs and therapeutic intervention to meet those needs. Assessment procedures are available to determine the child's level and area of trauma. The research of Sas (1993) and Goodman et al. (1992) demonstrates that children can be identified whose trauma is so severe that they should not even appear in court.

In the present study, the work relationship between the therapists and the Crown Counsels allowed communication between the two disciplines concerning the child's individual needs. Communication between the legal and therapeutic practitioners in this study led to "connecting points" to accommodate the child's needs in the courtroom. These "connecting points", a result of the work relationship, are also the key to enabling both disciplines to do their distinctive work while meeting the best interests of the individual child. The next step, in my opinion, is for the Crown Counsel to accept the therapeutically assessed need of the child and the earliest provision of adequate therapy (after the Ministry investigations are completed). The Crown Counsel could utilize the therapist's documentation of the therapeutic assessment and therapy format, to argue for court accommodations or case law to enable hearsay evidence if meeting the requirements of necessity and reliability.

In addition, the Crown Counsel could focus on early case development to ensure the availability of other forms of evidence and testimony, such as video and audio-taped interviews with the child during early investigation, and reports and potential testimony of parents, police, social workers, therapists, doctors, expert witnesses, and others. Such testimony and evidence can be argued when using the Khan principle (when the child is

not testifying) and courtroom accommodations such as the screen and support persons when the child does testify.

With an understanding of the work relationship that can exist between the Crown Counsel and the child's therapist, the Victim Assistance worker could potentially be a liaison between the two professional practitioners after his or her own "initial contact" to refer a child for therapy— thus providing the Crown Counsels with early and ongoing assessment of the individual child's well-being and ability to testify, or alerting the Crown Counsels to the need to confer with the therapists regarding the child's well-being. As the Victim Assistance worker can make recommendations to the Crown Counsel for accommodations for each child in the courtroom, it seems reasonable that he understand the work relationship between the therapists and the Crown Counsels and how it can aid in courtroom accommodations.

The work relationship identified in this study is not an easy one to form. Interdisciplinary education and professional development will play a role in encouraging and developing work relationships in other communities as well as this one. The study has revealed a mutual respect and understanding between these four legal and therapeutic workers. This respect was a core strength of the described work relationship. As the study participants discussed their trust in and respect for each other as "well-placed", they also revealed that such attributes were earned in past work experiences together and the individual attainment of adequate training and specialized credentials. It is never an easy task to enhance respectful interprofessional communication.

A theme in the present study was that the Crown Counsels and the therapists felt the impact of their work relationship both professionally and personally. Social awareness

and professional development together can promote change. Policy that brings community workers together from the legal and therapeutic disciplines will activate a search for acceptable change. Changes in legislation and administrative reform can be promoted through the day to day work endeavours and relationships between community professionals.

To promote the exchange of knowledge and information, policy must be developed which provides the opportunities for interprofessional development and education, encouraging work relationships between legal and therapeutic practitioners. As "partnership" is seen as a solution by government (Rogers, 1987), it is reasonable to expect policies of shared economic resources to fund interdisciplinary education opportunities. Education and development programs should also bring workers from both legal and therapeutic fields together with parents willing to contribute their own perspectives. Sharing perspectives develops awareness of the different roles, responsibilities, and experience of those involved, and the connections between them.

How can we consider the well-being of the child without the parents' involvement? Parent information must contribute to the shift in the legal core values regarding children. It is next to impossible to use a child witness without the parent's cooperation. Educational forums are needed which recognize the importance of including the parents' voices. Parents have their own goals and objectives regarding their child and family needs. Including parents in cooperative work relationships addresses the well-being of the child.

The implications for therapeutic practice involve the development of special skills. Therapeutic practitioners recognize child witnesses as a special client group, and must

make efforts to familiarize themselves with the legal process in which these children and their families are involved. Therapists require education on legal process, how to be a confident and useful witness themselves, and know the services available to victims of crime. When individual therapeutic practitioners are knowledgeable concerning legal processes, courtroom protocols, and services to victims of crime, they can confidently turn their attention to the development of adequate and effective therapy formats for each individual child witness.

Therapeutic professional associations need to recognize therapy for child witnesses as a special field and develop the expertise of therapeutic practitioners in this area, so they can remove the "handcuffs" and address therapy for the child witness with full confidence in their professional work practices and ethical considerations.

Advocacy

The focus of the present study on the work relationship between the Crown Counsels and the therapists in a legal case in one B.C. community has important implications for community level child-centered advocacy.

Public awareness begins locally, where the issues are felt in the homes, schools, churches, self-help groups, voluntary organizations, doctors' offices and local hospitals. The community looks to Ministry services for aid in child sexual assault cases, to the local social workers, the mental health workers, the Crown Counsels and Victim Service workers. It has been my own experience that children and families in a community make face-to-face contact with workers who also live in the same community. Their children participate together in community recreation, go to the same schools and daycares.

Workers in community are not easily separated from the issues of their client groups, socially and professionally. I also noted that this particular legal case in one B.C. community supported my own experience: the local community social workers, mental health workers, police, and daycare workers were involved to varied degrees in this case.

To advocate for the recognition of the needs of the individual child witness, Ministry and community workers together, within their own community, must encourage interdisciplinary work relationships. Present interdisciplinary models such as presented by Harvey & Dauns (1993b) may not work due to the lack of agreed upon core values regarding children between Ministries. This was revealed in the present study and can be applied to other government interministry protocols of Education, Social Services, Health, and the Attorney-General, of which one example is the *Inter-ministry child abuse handbook* (British Columbia, 1988). The well-being of the individual child must be paramount to the goals and objectives of separate Ministries. The movement from the government Ministry level down to the inclusive home community level will do this. It is reasonable to assume that the best advocacy is where the impacts are most felt and this awareness is combined with professional intellect, and ability to communicate, gain and apply new knowledge (Kelly, 1995).

It is said that the personal is the political. The first step for advocacy is the community's recognition of its own collective power to promote change and seek balance that benefits the well-being of our children. Victimization is only displaced through empowerment. Children are seen as victims of child sexual assault and court procedures. Community workers may also see themselves as the victims of society's system that sets

policy, legislative and administrative, to address a child's presence in Canadian courtrooms.

Legal, therapeutic, and other community workers can empower themselves through interdisciplinary education to gain the awareness, mutual respect, and courage to competently voice their concerns together within their own communities. Interdisciplinary education can promote the shift from a focus on the competing interests of community practitioners to a focus on the best interests of the individual child. Present interdisciplinary education embraces the power imbalance between the legal and therapeutic disciplines. One example is "Courtproofing for Practitioners", a workshop offered by the Justice Institute of B.C. While attending this course myself, I was impressed by the sharing of information and, at the same time, frustrated by the accepted agenda of the legal system. Crown Counsels were among the presenters of the workshop, which was for community support persons such as Victim Assistance workers, social workers, and therapists. The primary legal interest of prosecution set the agenda. An educational shift to the best interests of the child will address the present power imbalance that exists in present interdisciplinary education, giving therapeutic and legal practitioners equal voice within their communities.

Awareness of socio-economic differences must also play a part in advocacy for child witnesses and their families. In my own experience undertaking the present study, I was struck by the perspective of a financially stressed single mother (Appendix D). Some of the barriers to accessing therapy for her children included lack of transportation and costs, long waits in waiting rooms with small children, and the distance and time involved

to access services. She felt frustrated with the lack of awareness or practical help with her economic position, the lack of assistance to complete required paperwork, and the lack of current service information that might have been useful to her and her children. To advocate for child witnesses and their families, professionals who work together need to listen to the perceptions of parents and address those perceptions within their work relationships and in their interdisciplinary community involvements. Interdisciplinary workers can empower child witnesses and their families by sharing responsibility for increasing the individual's and the community's awareness of local services that provide information (victim services, independent legal advice); emotional support (health, education, self-help groups, social services); and financial and practical assistance (victims compensation, local service clubs, volunteer organizations). Discussion of the present study's findings agrees with the views of the Honorable Judge Thomas J. Gove (1995) of the *Gove inquiry into child protection (B.C.)*. On May 30, 1996, Judge Gove spoke at a meeting in Qualicum Beach, B.C., to the members of the community's volunteer Society of Organized Services, interested community members, and professional community workers. The presentation was reported in the local newspaper (Beacom, 1996) which quoted Judge Gove: "The interministry approach simply has not worked" and "Policy decisions are made from top to bottom, not from the community up. This is the fundamental problem. We have to start with the children.." (p5).

Only when community workers act within interdisciplinary work relationships to assist the child witness, in the context of community services that share and practise the core value of the well-being of each child, can the severe limitations of the present reality be addressed.

Study limitations and invitations

The present study gives a new perspective on the problem of the competing legal and therapeutic interests in relation to child witnesses in Canadian courtrooms. It gives the front-line workers' views of an interdisciplinary work relationship between two Crown Counsels and two therapists within the context of a legal case of child sexual assault in one B.C. community. While the findings represent the views of the study participants only, individual workers in this and other B.C. communities are invited to determine the fit of this study with their own knowledge and experience. The study also invites readers to a vicarious experience and the opportunity to modify their own past generalizations (Stake, 1995).

This study is time and context dependent. The study does fit with the current literature addressing inquiry into support and preparation of child witnesses. It has supported and been supported by the current literature, for example in relation to: case by case differences (Goodman et al., 1992); some children suffer more than others (Sas, 1993); some children do "weather the storm" (Myers, 1992); children who suffer extreme trauma can be identified (Sas, 1993); prosecution overrides the individual child's best interests (Horner, 1993). Similarity to any other legal case, community, or work relationships is limited to the degree of similarity between the two contexts and times. The study has provided "the thick description necessary to enable someone interested in making a transfer to reach a conclusion about whether transfer can be contemplated as a possibility" (Guba & Lincoln, 1985, p. 316). I have included a wide range of information to provide thick description from varied sources: observation, interviews, documents, and purposive sampling. I have provided a decision trail and clearly stated time and context.

The significance of this study will rely, in part, on further research. More single case studies and across case studies will strengthen, or weaken, the present findings. There is strong argument for the undertaking of single legal case studies to examine this interdisciplinary work relationship. Single cases respond to the call for more court-based research (Davies & Westcott, 1995) and to examine individual differences and be multisite (Melton, 1992). More importantly, single cases like this one allow a response, a direct voice, from participants in relation to their personal and current work experience.

A connection was made in this study between practice and the protocol for child witness preparation for Crown Counsels and other professional workers (Harvey & Dauns, 1993b). To give a provincial overview of professionals' concerns, further community-based legal case studies would explore and evaluate the connections, or lack of, between current protocols and practice in this and other B.C. communities.

The present study contributes to the current literature, identifying power as a descriptor of this interdisciplinary work relationship. More research is needed to explore the concept of power in interdisciplinary work relationships, research that may strengthen the findings of the present study and inform the policy makers of interdisciplinary protocols regarding child witnesses.

References

Avery, M. (1983). The child abuse witness: Potential for secondary victimization. *Criminal Justice Journal, 7*(1), 1–35.

Badgley, R. (1984). *Summary of the report of the committee on sexual offences against children and youths*. Ottawa: Supply and Services Canada.

Bala, N. (1990). Double victims: Child sexual abuse and the criminal justice system. *Queen's Law Journal, 15*(1), 3–21.

Beacom, C. (1996, June 6). Gove explains stinging report. *The News*, p. 5.

Berliner, L., & Barbieri, M. K. (1984). The testimony of the child victim of sexual assault. *Journal of Social Issues, 40*(2), 125–137.

British Columbia, (1988). *Inter-ministry child abuse handbook*. Victoria: Ministry of Social Services and Housing.

Bruner, C. (1990). *Thinking collaboratively: Ten questions and answers to help policy makers improve children's services*. (paper) Des Moines, Iowa: Child and Family Policy Center.

Canada, (1983). *Criminal Law Amendment Act*. S.C. 1980–81, (c.125).

Canada, (1988). *An Act to amend the Criminal Code and Canada Evidence Act*. R.S.C. 1985 (c.19, 3rd Supp.).

Canada, (1993). *An Act to amend the Criminal Code and Young Offenders Act*. S.C. 1993 (c.45).

Canada, (1994). *Child sexual abuse initiative: Summaries of funded projects (1986-1991)*. Ottawa: Ministry of Supply and Services Canada. (Cat. No. H72-21/24-1991-1E)

Canada, (1994). *Family violence initiative: Summaries of funded projects (1988-1991)*. Ottawa: Ministry of Supply and Services Canada. (Cat. No. H72-21/24-1991F)

Castel, J. (1992). The use of screens and closed-circuit television in the prosecution of child sexual abuse cases: Necessary protection for children or a violation of the rights of the accused? *Canadian Journal of Family Law, 10*(2), 283–301.

Conte, J. (1984). The justice system and sexual abuse of children. *Social Service Review, 58*(4), 556–567

Finkelhor, D. (1986). *A sourcebook on child sexual abuse*. Newbury, California: Sage.

Fontana, A., & Frey, J. (1994). Interviewing: The art of science. In N. Denzin & Y. Lincoln (Eds.), *Handbook of qualitative research* (pp. 361–374). Thousand Oaks, California: Sage.

Fote, D. (1985). Child witnesses in sexual abuse criminal proceedings: Their capabilities, special problems and proposal for reform. *Pepperdine Law Review, 13*(157), 157–184.

Fredrickson, R. (1982). Untitled paper presented at the *Symposium on Sexual Abuse of Children*. Child Psychiatric Research Institute, University of Western Ontario.

Ginkowski, R. (1986). The abused child: The prosecutor's terrifying nightmare. *Criminal Justice Journal, 1*(1).

Goodman, G., Taub, E., Jones, D., Patricia, E., Port, L., Ruby, L., Pardo, L. (1992). Testifying in criminal court: Emotional effects on child sexual assault victims. *Monographs of the Society for Research in Child Development, 57(*5), 1–142.

Gove, The Honorable Judge Thomas J. (1995). *Report of the Gove inquiry*. British Columbia.

Guba, E.G., & Lincoln, Y.S. (1981). *Effective evaluation*. San Francisco: Jossey Bass.

Guba, E.G., & Lincoln, Y.S. (1985). *Naturalistic inquiry*. Newbury Park: Sage.

Harvey, W. (1992). *Court preparation for the child witness in the child assault trial*. Vancouver: Criminal Justice Branch.

Harvey, W., & Dauns, P. (1993a). *Sexual offences against children and the criminal process*. Vancouver: Butterworth.

Harvey, W., & Dauns, P. (1993b). *Child witness preparation manual*. Vancouver: Justice Institute of B.C.

Horner, B. (1993). *Four year review of the child sexual abuse provisions of the Criminal Code and Canada Evidence Act (Formerly Bill C-15)* . Standing Committee on Justice and the Solicitor General: Canada.

Huberman, A., & Miles, M. (1993). Data management and analysis methods. In N. Denzin & Y. Lincoln (Eds.), *Handbook of qualitative research* (pp. 428–444). Thousand Oaks, California: Sage.

Hycner, R.H. (1985). Some guidelines for the phenomenological analysis of interview data. *Human Studies, 8*(3), 279–303.

Janesick, V. (1994). The dance of qualitative research design: metaphor, methodolatry, and meaning. In N. Denzin & Y. Lincoln (Eds.), *Handbook of qualitative research* (pp. 209–219). Thousand Oaks, California: Sage.

Kelly, J. (1995). Power imbalance in divorce and interpersonal mediation: Assessment and intervention. *Mediation Quarterly, 13*(2), 85–98.

Kirby, S., & McKenna, M. (1989). *Experience, research, social change*. Toronto: Garamond Press.

Lincoln, Y., & Guba, E. (1985). *Naturalistic inquiry*. Newbury Park, California: Sage.

McEvoy, M. (1990). *Let the healing begin: Breaking the cycle of child sexual abuse in our communities.* Merrit, B.C. Nicole Valley Institute of Technology.

McLachlin, The Honourable Madam Justice B. (1992). Children and the legal process: Changing the rules of evidence. *The Advocate, 50*(pt. 5), September 1992, 728–732.

Melton, G., & Limber, S. (1989). Psychologists' involvement in cases of child maltreatment: Limits of role and expertise. *American Psychologist, 44*(9), 1225–1233.

Melton, G. (1992). Children as partners for justice: Next steps for developmentalists. *Monographs of the Society for Research in Child Development, 57*(5), 153–157.

Miles, M.B., & Huberman, A.M. (1994). *Qualitative data analysis: An expanded sourcebook*. (2nd. ed.). Thousand Oaks, California: Sage.

Myers, J. (1992). Steps toward forensically relevant research. *Monographs of the Society for Research in Child Development, 57*(5), 143–149.

Northey, M. & Tepperman, L. (1986). *Making sense in the social sciences*. Toronto: Oxford University Press.

Pal, L. (1992). *Public policy analysis* (2nd ed). Ontario: Nelson Canada.

Patton, M. (1990). *Qualitative evaluation and research methods*. California: Sage.

Parker, J. (1982). Rights of the child witness: Is the court a protector or perpetrator? *New England Law Review, 17*(3), 644–717.

Pogge, D. & Stone, K. (1990). Conflicts and issues in the treatment of child sexual abuse. *Professional Psychology: Research and Practice, 21*(5), 354–361.

Regina v. Khan, 2 S.C.R. 531 (1990).

Rogers, R. (1990). *Reaching for solutions: The report of the special advisor to the minister of National Health and Welfare of child sexual abuse in Canada.* Ottawa: National Clearinghouse on Family Violence, Health and Welfare Canada.

Sandelowski M. (1986). The problem of rigor in qualitative research. *Advances in Nursing Science, 8*(3), 27–37.

Sas, L. (1991). *Reducing the system induced trauma for child sexual abuse victims through court preparation, assessment and follow-up.* (Health and Welfare Canada Project #4555-1-125, January 1991). London, Ontario: London Family Court Clinic.

Sas, L. (1993). *Three years after the verdict: A longitudinal study of the social and psychological adjustment of child witnesses referred to the child witness project.* (Health Canada, FVDS No. 4887-01-91-026). London, Ontario: London Family Court Clinic.

Saunders, E. (1988). A comparative study of attitudes toward child abuse among social work and judicial system professionals. *Child Abuse and Neglect, 12*, 83–90.

Stake, R. (1994). Case studies. In N. Denzin & Y. Lincoln (Eds.), *Handbook of qualitative research* (pp. 236–246). Thousand Oaks, California: Sage.

Stake, R. (1995). *The art of case study research.* Thousand Oaks, California: Sage.

Taylor, S. & Bogdan, R. (1984). *Introduction to qualitative research methods.* Toronto: John Wiley & Sons.

Turner, D. & Uhlemann M.R. (Eds.) (1991). *A legal handbook for the helping professional.* Victoria: The Law Foundation of British Columbia. The Sedgewick Society for Consumer and Public Education.

United Nations General Assembly (1989). *Convention on the rights of the child.* (Doc A/RES/44/25 with Annex, December 12, 1989)

Wilk, R., & McCarthy, C. (1986). Intervention in child sexual abuse: A survey of attitudes. *Social Casework: The Journal of Contemporary Social Work, 67*(1), 20–26.

Yin, R. (1984). *Case study research: Design and methods*. Newbury Park, California: Sage.

Yin, R. (1993). *Applications of case study research*. Applied Social Research Methods Series, 34. Newbury Park, California: Sage.

Appendix A

Copy of informed consent form

To:

Name:

Position:

CONSENT FORM FOR PARTICIPATION IN THE STUDY ENTITLED,

Crown Counsels and Therapists: A Work Relationship and Its Influence on the Child Witness, to be conducted by Judith Marshall, graduate student of the University of Victoria, under the supervision by Dr. Deborah Rutman, Faculty of Human and Social Development, University of Victoria.

I understand that this is a descriptive study of the work relationship experienced by the Crown Counsel and the therapeutic practitioner who work with the child witness within one legal court case alleging sexual assault of the child. In the effort to describe the experience of this work relationship, I understand that I will be asked about my experience/perceptions in an interview with the researcher, Judith Marshall.

I understand that my participation is completely voluntary and that I can withdraw from the study at any time, without explanation.

I understand that any data/information collected in the study will remain confidential and kept in a secure file in a locked room. Furthermore, I understand that my name will not be attached to any published results, and that the researcher will disguise identifying characteristics.

I understand that my interview will be audio-taped and that the tape will be erased immediately after it has been transcribed in anonymous form, approximately one month following the taped interview. I also understand that a follow-up meeting may be requested for any clarification.

I understand my right to any subsequent inquiry or complaint concerning the study, from/to the researcher and her supervisor at the University of Victoria.

Date:

Signature of participant: Signature of researcher:

Appendix B

Copy of information sheet to be retained by study participant

This is an information sheet to be retained by participants of the study entitled, *Crown Counsels and Therapists: A Work Relationship and Its Influence on the Child Witness.*

This research project is a descriptive study of the work relationship experienced by the Crown Counsel and the therapeutic practitioner who work with the child witness within one legal court case alleging sexual assault of the child. In the effort to describe the experience of this work relationship, you will be asked about your experience/perceptions in an interview with the researcher, Judith Marshall.

Your participation is completely voluntary and you can withdraw from the study at any time, without explanation.

All data/information collected in the study will remain confidential and kept in a secure file in a locked room. Your name will not be attached to any published results, and the researcher will disguise identifying characteristics.

You have a right to any subsequent inquiry or complaint concerning the study, from/to the researcher and her supervisor at the University of Victoria.

Your interview will be audio-taped and the tape will be erased immediately after it has been transcribed in anonymous form, approximately one month following the interview. A follow-up meeting may be requested for any clarification.

Contact phone number: Researcher: Judith Marshall
Supervisor: Dr. Deborah Rutman
Faculty of Human and Social Development.
University of Victoria (604) 721-8202

Appendix C

Question guides for study participants

1. Question guide for therapists

Based on your experience in this one legal case and focusing on the work relationship of the Crown Counsel and the therapeutic practitioner:

How did you experience your role in the work relationship as it relates to system-induced trauma of the child (related to the experience of the child testifying)?

Prompts: preparation, support, communication.

What is your experience of the work relationship as it relates to the accommodation of the child in the courtroom setting?

Prompts: screens, hearsay evidence (voir dires), previewing of the courtroom.

How would you describe your experience of the parameters of therapeutic support during this legal case?

Prompts: knowledge of legal process, rights of accused, issues, limitations, feelings, philosophy.

What meaning does this experience of the work relationship have for you as a worker? as an individual? as a parent?

What are your perceptions of the influence of this work relationship on the child witness?

Has this experience changed or readjusted any of your previous perceptions?

2. Question guide for Crown Counsels

Based on your experience in this one legal case and focusing on the work relationship of the Crown Counsel and the therapeutic practitioner:

Could you relate your history of working with this association of therapists?

How did you perceive your relationship with the therapists addressed system-induced trauma of the child?

How did you perceive your relationship with the therapists affected accommodation of the child in the trial setting?

How did the law enable the relationship to address system-induced trauma and accommodation of the child in the courtroom?

What was your perception of the parameters of therapeutic support in this case?

Does the relationship address any perceived limitations of time and rapport with the children on the part of Crown Counsel?

What meaning does this experience of the work relationship have for you as a worker?

What are your perceptions of the influence of this work relationship on the child witness?

Has this experience changed or readjusted any of your previous perceptions?

3. Question guide for parent

This question guide is meant to explore the influence of the relationship between Crown Counsel and the therapist on the child, from the parent's perspective.

What were some of your concerns for your daughters as potential child witnesses in the trial?

How did your daughters express their own concerns?

What process brought you together with the therapist?

How did your daughters express their experience of seeing the therapist? (verbal expression, behaviors)

How do you perceive the therapist's role might have been affected by the court case and your daughters' potential positions as witnesses?

Can you describe the support your daughters received for their experience as potential witnesses (from the Crown Counsel, Victim Assistance, and the therapist)?

How did your daughters express their experience of this support?

What accommodations were made for hearing your daughters' stories in the courtroom setting? (parent as witness, police and social worker as witnesses, therapist as witness, video/audio tapes)

Will you describe your personal experience of testifying? (hearsay evidence of parent regarding child's behaviors)

Are there any expressions of your children's experience that you would like to add?

4. Question guide for parents

This question guide is meant to explore the influence of the relationship between the Crown Counsel and the therapist on the child, from the parents' perspective.

What were some of your concerns for your son as a child witness?

How did your son express his own concerns? (verbal, behaviors)

What process brought you together with his therapist?

How did your son express his experience of seeing the therapist?

How do you perceive the therapist's role might have been affected by the court case and your son's position as a witness?

Can you describe the support your son received for his experience as a witness (from Crown Counsel, Victim Assistance, the therapist)?

How did your son express his experience of this support?

What accommodations were made for your child in the courtroom setting? (screen, corridor, father)? How did your son express his experience of these accommodations?

Will you describe your experience of accompanying your son to the witness box?

How did your son express his experience of giving testimony?

Has your son expressed any thoughts or feelings about witnessing following his testimony?

Are there any expressions of your child's experience that you would like to add?

5. Question guide for psychologist as expert witness in this legal case and as director of the private association of therapists.

Based on your experience in this one legal case and focusing on the work relationship of the Crown Counsel and the therapeutic practitioner:

Could you relate your history of working with the Crown Counsel?

How did these children come to your association?

What do you perceive to be the role of this work relationship as it relates to:

1) system-induced trauma of the child witness?
2) accommodation of the child in the courtroom setting?

What did you perceive to be the parameters of therapeutic support during the legal case?

What are your perceptions of the influence of this work relationship on the child witness?

6. Question guide for the Victim Assistance worker

Based on your experience in this one legal case and focusing on the work relationship of the Crown Counsel and the therapeutic practitioner:

How did you initially become involved in this legal case?

How would you describe your role in this case as it may concern the work relationship between the Crown Counsel and the therapists?

What was your experience of your contact with the therapists?

How would you describe your role regarding accommodation of the child in the courtroom processes?

What's your perception of the influence of the work relationship between Crown Counsel and therapist on the child witness?

Appendix D

The interview experience

1. Victim Assistance worker

The interview time and place is set by the VAW. Commuting between two communities, he suggests that my home is between them and convenient for him to stop.

The VAW expresses his perception that there is a limited relationship between Crown Counsel and the therapists: "the only relationship I see between the two is that Crown calls a therapist in and interviews them as to the questions they will be asking (concerning the children) in court." This response appears incongruent with his subsequent descriptions. I note that I will explore this further when the interview is transcribed.

Crown Counsel had asked me not to interview during the course of the trial as there may be an appeal of the legal case. Would legal professionals participating in the study be focused on an appeal? Had the influx of television media heightened precaution in their expressions? The Defence Counsel had informed the court that he was instructed to file an appeal. I do not know how much time may pass before an appeal is filed, accepted, or rejected. It may be that such concerns must exist in any legal case, and will play a part in this study as well.

2. Parents of a child witness

The interview time and place is set by the parents who request to attend at my home. I set my priority to be informal, to create a comfortable atmosphere, and to remain consistent with my behavior during the legal trial. The couple appear relaxed on the couch as I am comfortably sitting on the rug beside the coffee table and the tape recorder.

I am immediately aware of the differences in interviewing with three of us compared to only two. I mentally note the interactive conversation between husband and wife as they check each other's perceptions and experiences of a topic. I am intrigued and wonder if the tape will be difficult to transcribe with three voices, and what effect if any there will be to analysis.

As the parents express themselves, I sense that the interview is giving the couple an opportunity to speak of their experience to someone who shows genuine interest as well as empathy. They have the ability to articulate, grope beneath the surface of the experience, and look for meaning in their participation in this legal trial. Their focus is on their child. My focus is on my professional training and experience in good communication skills: body language, eye contact, non-judgemental expressions, genuineness, and empathy. Reflecting and summarizing what I hear, I follow their leads and their pace. I realize that I am grateful for their openness and trust, and the sincerity of their participation. These feelings are giving me a somewhat overwhelming sense of responsibility, accountability. They are entrusting me with something of themselves that makes me feel humble.

3. Parent of two child witnesses

This third interview is quite different from the previous two interviews. Socio-economic differences become apparent. How could I not have recognized the importance of the role of socio-economics on the perception of parent participants? I had knowledge of the mother's socio-economic status. I knew this was a single, unemployed parent because she had testified to that effect in court. I had not experienced the reality of her daily life within the environment of the courthouse. Interviewing this single mom, I *feel* and *see* her socio-economic environment. I become *aware* through my own senses. What she is saying in her interview is confirmed/supported by her home environment in which the interview takes place.

A's directions to her home are easy to follow. As I travel the road through the rural community, her house appears around the bend and past a sign posted, "lots for sale". I am unprepared for the sight of the old house which appears to have been built long before "lots" was a familiar word in this area of family farms and lakes. I pull my car into the dirt drive and cautiously look for the dog. Looking toward the sound of barking, my eyes fall on the wooden mesh-screened pen built along one full side of the small house.

A greets me at the door. I step into a feeling of another time in history mixing with this present one. I hang my jacket and remove my shoes in the small entry, while A

puts logs in the wood-burning heater inserted into the old fireplace. I mentally hope that insulated stove pipe goes throughout the old chimney. There is no possibility of insurance on this house, I think. The family room is cheerful with Christmas crafts in progress. We pass into the kitchen where coffee is poured for myself, and a pot of tea and her cigarettes are set out for A. I have been worried that my lack of sleep last night due to a cold will affect my attention to the interview. I don't usually drink coffee when I have a cold but the hospitality is cheering and A and the old kitchen are welcoming. As the morning progresses beside A's kitchen window, my cold ceases to affect me.

Surrounded by the old farm house kitchen cupboards, we interview for about an hour. I am surprised at A's consistent focus on her financial concerns as they relate to the trial and her daughters' ongoing therapy. At the close of the taped interview, A shows me the rest of the old house. The children's colourful bedroom and playroom are in contrast to the low, water-stained ceilings, the holes in the doors that A has patched, and the old electrical wiring. A sums up the rented house as "affordable".

My own disclosures to A are minimal. I have experienced being a single parent, grateful to find affordable rental housing; I have also practised making a cheerful and clean home from houses that had seen better times many years ago. However, beyond these disclosures, I have deeper feelings and memories about my ten years as a financially stressed single mother. These swell up in the days following the interview. Looking back ten to twenty years ago is somewhat painful, and out of that pain comes anger. Our society often turns a blind eye to poverty and the plight of women and children struggling every day to fit in with the rest of the community. A's interview opens my eyes and my senses to her perspective and special difficulties as a participant in the trial and parent of child witnesses.

4. The Psychologist, expert witness in the trial

The psychologist, entering the office waiting room from his walk in the cool winter outdoors, reaches down to unhook the pup's leash. Unleash the pup, he does! The new puppy is like a two year old, grabbing a child's white teddy bear in his puppy jaws and half dragging, half flipping it through the halls in an inviting game of catch-me-if-you-can with

the secretary. Shortly, the secretary places the pup in his pen so that the interview can be conducted. The psychologist changes to his dress shoes and pours himself a cup of coffee, looking totally refreshed and revitalized from his walk. I note that I am also picked up from a long morning myself. Every office should have a puppy.

I quietly compare the shared laughter and smiles the pup initiates with the more subdued atmosphere of my previous visits to this office. I feel fortunate to have encountered a light mood for the interview, with a relaxed participant.

In contrast to my interview with the single parent this same morning, this interview with the psychologist is professionally oriented. I note that he recognizes two different perspectives of the disciplines of therapy and law. He expresses his experience of the relationship between Crown Counsel and his own office as a positive and respectful one. I wonder if the judgement of guilty encourages a positive feeling about the work relationship? Does a successful conviction also promote a positive outlook concerning participation in this study?

5 & 6. The therapists

Entering the office of the first therapist, the second therapist approaches and asks if I am able to interview her later the same morning. She has a cancelled appointment. I agree, relieved that I am flexible with my own time and can accommodate the change.

I am relaxed, aware of taking comfort in my familiarity with the profession, the use of language, and the art and play therapy environment. I am also benefitting from an established rapport with the two therapists. While the interviews are professionally oriented, there is an element of the personal, a connection of the self with others, community and family.

Looking back at prior contact with the therapists, I am aware of our past reflections on our individual experience of family, social community, and professional development. I believe the rapport contributes to their interest as participants in the study. Following her interview, each therapist expresses her desire to see results of my work, a willingness to provide follow-up if needed and feedback as requested. I sense their genuine desire to know more about this relationship and its service to children.

I wonder what their perception is of me? Has my professional experience opened communication and made the research seem more credible and useful? Have the parent participants expressed their perceptions of me to the therapists? What may have been discussed concerning myself and the study during staff meetings of the association? Do the parents and the therapists influence each other at all with reference to the researcher's trustworthiness, my values? I assume these questions come with the territory of any qualitative study.

Interviewing with each of the therapists promotes contemplation of the interactive rapport between all of the participants in this study, as well as the role of professional socialization. With the therapists I enjoy the movement between the professional and the personal. I think back to the interview with the Victim Assistance Worker. Am I seen more as an outsider by him than by the therapists? Was our interview affected by professional socialization, and use of language?

The trial is over; the professionals are parting paths. The therapists' attention to the ongoing therapy resumes. For the legal practitioners, their attention turns to the appeal process and its scrutiny of their work.

7. The Assistant Crown Counsel

The ACC explains that "no court day" is a casual one at the office. It crosses my mind that it is my good fortune to have time with her on this day. Interruptions may be less likely and her attention undivided. I am grateful for what I perceive to be her forethought.

As the tape recorder is set up, the ACC initiates sharing some of her thoughts concerning the newspaper and television reporters. She reminds me that there is going to be an appeal by the accused. I give assurances that we can stop the tape and erase any time that she might ask (no such request is made).

Setting the microphone on the desk between us, we hear music outside the window, from the city street below. We laugh as I refer to the music as "your introduction" and she as "the usual drum roll". I am aware of my liking the ACC and of our previous rapport throughout the duration of the trial. She was always available to

answer inquiries by myself and the lawyer/informant accompanying me. We would share hallway conversations, and I would check with her on my appropriate behavior during the legal trial.

The ACC has made notes on each of the interview guide questions and refers to them throughout the interview. I consistently reassure her my interest is in her own perceptions and not a conclusive interpretation of the questions.

8. The Crown Counsel

Arriving at the scheduled interview I am told that the CC is expecting me. I have not been cancelled! My relief is short-lived as the CC enters the waiting room to inform me of a call to attend at the courthouse. He offers to split the interview time or to see me an hour later. I opt for the hour later. In making my appointment with him I had bribed the CC with a cup of his favorite brand of coffee. I pass him the steaming cup, sealing the commitment to an hour's postponement. Upon his return the CC is apologetic and optimistic of no further interruptions. I am determined to grab our moment.

The CC's office is large, the wall behind the conference-sized desk is lined with bursting bookshelves. A computer system, video-player, and television crowd one corner of the room. I plug in my tiny tape-recorder and set the microphone between the piles of paper between us. This atmosphere reminds me of the CC's responsibilities; I resolve to be clear, focused, and keep to the one hour requested.

While the recorder is being set up, the CC is informing me that an appeal has been filed. The interview does not wander, and the CC's responses are extensive, direct, and well-developed. I do not take my gaze from the CC's face, listening intently, working my mind quickly to follow his lead, and using a mental guide to my own questions and concepts. At the close of our hour, I am totally exhausted and most satisfied.

VITA

Surname: MARSHALL Given Names: JUDITH MARGARET

Place of Birth: Winnipeg, Manitoba

Date of Birth: November 23, 1947

Educational Institutions attended:

University of Victoria 1988–1991, 1993–1996

Degrees Awarded:

B.A. University of Victoria 1991

PARTIAL COPYRIGHT LICENSE

I hereby grant the right to lend my thesis to users of the University of Victoria Library, and to make single copies only for such users or in response to a request from the Library of any other university, or similar institution, on its behalf or for one of its users. I further agree that permission for extensive copying of this thesis for scholarly purposes may be granted by me or a member of the University designated by me. It is understood that copying or publication of this thesis for financial gain shall not be allowed without my written permisssion.

Title of thesis:

Crown Counsels and Therapists: A Work Relationship and Its Influence on the Child Witness

Author: [redacted]

Judith Margaret Marshall
August 30, 1996