

**Review of “The Needs of
Victims of Institutional
Child Abuse”**

**Institute for Human
Resource Development
(IHRD)**

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Ce document est également disponible en français sous le titre *Étude des besoins des victimes de sévices en établissement*.

Final Report
Review of
“The Needs of Victims of Institutional Abuse”

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IHRD contracted with several professionals in the completion of this project. Colleen Hanrahan, of the Institute for the Advancement of Public Policy, was instrumental as a senior researcher, as was Anne Morris, who also completed the Mt. Cashel survivor interviews. Our list of consultants/interviewers includes Pat Duggan (Nova Scotia); Adje van de Sande (Quebec); Deborah Leach and Associates (Ontario); and Peter Calder (Alberta). A notable job was done by all, especially in light of tight time lines.

Much appreciation is offered to the people who acted as “friendly sources” and key contacts for the various sites. These include: Bruno Roy (Quebec); Dr. Elsie Blake (Nova Scotia); J. J. Byrne (Newfoundland); Daintre Norman (Ontario); Dick Sobsey (Alberta).

The Law Commission’s Study Panel assisted the consultant through its critique of our work and in assisting us in identifying key contacts. We appreciate the many key informants who gave freely of their time and knowledge, often going beyond our expectations in their eagerness to address the issues.

Finally, we wish to express our deepest thanks to those survivors of institutional abuse who participated in our project. Their general wish was that their involvement would make it less likely that other children would be subjected to the abuse they suffered. We certainly share that wish, and hope this document contributes in that direction.

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1.0 INTRODUCTION

This document represents the final report of the “ Review of the Needs of Victims of Institutional Abuse”. The review is being conducted for the Law Commission of Canada (LCC), by the Institute for Human Resource Development (IHRD), a private consulting firm based in St. John’s, Newfoundland.

IHRD’s technical team in completing this review included: Rick Morris, project manager; Rick Browning , senior advisor; Colleen Hanrahan of the Institute for Public Policy, senior consultant; Anne Morris, senior consultant; Mike Eagen, methodology consultant; Patricia Duggan, interviewer/ consultant (Nova Scotia); Adje van de Sande, interviewer / consultant (Quebec); Deborah Leach and Associates, interviewers / consultants (Ontario); Dick Sobsey and Peter Calder, interviewers / consultants (Alberta).

This report is organized into six sections: an introduction; study objectives; research questions; methodology; findings, and; conclusions. Individual reports on the primary institutions are included in appendices, as are two literature reviews, one on institutional abuse and another on foster care.

2.0 STUDY OBJECTIVES

The study objectives are as follows:

1. To identify the nature and extent of institutional child abuse in Canada.
2. To gather information pertaining to the experiences with and opinions of victims of institutional abuse, and other relevant informants, about the redress options.
3. To identify the range of and rationale for the legal options implemented in Canada for victims of institutional child abuse, and their integration with other responses (e.g. support programs, compensation programs).
4. To examine the effectiveness of the redress options in addressing individual needs and desired outcomes of victims of institutional child abuse.
5. To identify fundamental principles, policies and programs for ensuring the prevention, early intervention, and optimal response to the impacts of institutional abuse on victims.

3.0 RESEARCH QUESTIONS

For each objective of the study, we identified research questions which guided the consultant's activity. These include:

1. ***Nature and Extent of the Problem (addressed in literature review)***

- How do we define 'institution' and 'abuse'?
- What is the incidence of institutional child abuse in Canada?
- What institutions has abuse occurred within?
- Why were children placed in institutions?
- What were the rationales for institutional care of children?
- What role do institutions play in the care of children in Canada today?
- What causes institutional child abuse?
- How does it remain secret for, in some instances, decades?
- What is the impact on families, the community, and society at large?
- What are the needs of survivors?

2. ***Experiences and Opinions of Survivors and Other Informants(literature review, interviews with survivors and knowledgeable others)***

- What abuse was suffered by survivors of institutional child abuse?
- How did it become known in the first instance?
- What was the response of authorities at that time? Over time?
- What was the survivors' experience with redress options (criminal court, civil suits, apologies, ADR, support programs)?
- How well were their needs accommodated and interests represented? Were there gaps?
- What do survivors need to assist them as adults in addressing the impacts of institutional child abuse?
- What implications are there in the administration of justice for the addressing of the needs and interests of survivors?

3. ***Range and Rationale (literature / document review, interviews with survivors and knowledgeable others)***

- What redress options have been chosen in this country to deal with instances of institutional child abuse?
- Who selects the options?
- Who has input?

- What is the role of the survivor? Their family? The Community? Other stakeholders?
- What are the fundamental principles, policy considerations and other factors influencing the choice of options?
- What is the rationale in each instance?
- What are the goals of the options?
- How do legal options integrate with other redress approaches or support systems?

4. *Effectiveness of Options in Meeting Individual Survivor Needs (interviews with survivors and knowledgeable others)*

- What have been the outcomes of the interventions?
- Do survivors believe that they have benefitted from these outcomes? Do others believe they have? If not, why not? If so, how?
- What are some of the key considerations in addressing survivor needs in cases of institutional child abuse?
- Do these options encompass the needs of survivors? If not, why not? If so, how?
- What are the gaps?

5. *Fundamental Principles, Policies, and Programs (Interviews with survivors and knowledgeable others, literature / document review)*

- What are the fundamental principles that should underlie the approaches to the redress of abuse suffered by adults when they were children in institutions?
- What policy implications arise from this review in terms of prevention, early detection and intervention, and appropriate redress of institutional child abuse?
- Are there emerging 'best practices' in addressing institutional child abuse in terms of prevention? Early identification and intervention? Improved responses to past experiences of abuse that may yet surface?

4.0 METHODOLOGY

4.1 Study Panel

LCC assembled a study panel to guide and review the work of the consultants. This panel represents a variety of expertise and experience with institutional child abuse, across the country. The study panel roles include:

- reviewing the design of the review;
- assisting in the identification of key contacts in the institutions to be studied;

- advice in proceeding with information gathering;
- in some instances being interviewed as key informants for the review, and;
- reviewing of findings and final reports.

4.2 Literature Review

Two literature reviews were completed. One focused upon the nature and extent of institutional abuse in Canada, the impacts on survivors, methods of addressing these situations when they become public, and emerging practices. The other literature review focused on foster care, and its role as an alternative to institutional care of children. Both are appended to this report.

4.3 Selection of Institutions

The review did not attempt to be inclusive in its examination of cases of institutional abuse in Canada. The numbers of cases emerging in the last decade or so was seen to be too numerous to provide an exhaustive examination, given the available resources. The resulting approach combines more intensive information gathering in five institutions, referred to as **primary institutions**. To this was added six other cases, referred to as **secondary institutions**, wherein less rigorous information gathering would be undertaken.

The criteria for selection of institutions for study include:

Geography / Culture:

There was some representation from all regions of the country.

Type of Institution:

Institutions selected included young offender facilities, child welfare residences, foster care, residential schools for the deaf, institutions for persons with mental illness, and homes for persons with developmental disabilities.

The decision about which cases would be selected was a collaborative process between the consultant, LCC, and the study panel.

Race, Gender:

In selection, persons identifying survivors to interview were asked to include proportional levels of persons of visible minorities and women as to those who were resident in the institution. In fact, the friendly sources who assisted in identifying survivors were instructed to err on the side of over-representing on these factors.

Type of Abuse:

All cases report physical, emotional, and sexual abuse. Also there are instances of forced sterilization, alleged wrongful diagnosis of developmental disability, neglect, and failure to warn families of abuses.

Types of Redress:

In order to study the impact of various redress interventions, attempts were made to select cases which would give information about the range of these types of redress.

Availability of Contact People / Numbers of Cases in an Institution:

Institutions were selected on the basis of a judgement that the target numbers of informants could be contacted.

4.3.1 Primary Institutions

The examination of primary institutions includes the following:

- interviews with 20 survivors;
- interviews with 5-10 key informants;
- review of relevant documents and reports.

The following cases were selected as primary institutions. (N.B. Initially, another institution, Westfield, was chosen in Alberta. However, on advice from local contacts, it was dropped in favour of the Michener Centre.)

Mt. Cashel (Newfoundland)

Nova Scotia School for Boys; Nova Scotia School for Girls; Nova Scotia Youth Training Centre (Nova Scotia)

Granddview (Ontario)

The Duplessis Orphans (Quebec)

The Michener Centre (Alberta)

In the cases of Mt. Cashel, Nova Scotia, and Grandview, there have been full police investigations, criminal charges laid, civil suits or settlement programs / ADR processes implemented, and general societal acceptance that abuse has occurred. In Michener Centre, the government has recently acknowledged the abuses and is in the process of setting up a settlement program for compensation, following some successful civil suits.

In the case of the Duplessis orphans, there have been police investigations, one criminal conviction, and a stalled class action lawsuit. However, there has been no public acknowledgment of responsibility from government, the church, or the physicians of Quebec, all of whom have been implicated. The case has been the focus of books and television documentaries, and there are at least five support groups for survivors. The Ombudsman's office in Quebec has validated the existence of institutional abuse in this instance. In its 1997 report on the Duplessis orphans, entitled "Les Enfants de Duplessis: A L'Heure de la Solidarite", the following recommendations were made:

- that the government, the religious orders, and the Quebec Order of Physicians make a public statement of apology;
- that the victims receive financial compensation;
- that funds be set aside for a range of counseling services to the victims.

For this report, there are 92 completed survivor interviews. In addition to interviews with survivors, there are 35 other interviews completed with respect to the primary institutions. Further, we have reviewed all relevant literature on each of the cases (e.g. public inquiry accounts, program descriptions, first person accounts, etc).

4.3.2 Secondary Institutions

The examination of **secondary institutions** includes the following:

- interviews with smaller numbers of survivors or survivor groups;
- interviews with 3-5 key informants;
- review of relevant documents and reports.

The following cases were selected as secondary institutions. (N.B. Jericho Hill School was originally selected as a primary institution. However, concerns about the safety of survivors, given two intense activities coinciding with the research, a class action lawsuit and a national television documentary, led to a decision to shift this case to a secondary institution status for our review).

Jericho Hill School (British Columbia)

St. John's/St. Joseph's (Ontario)

Kingsclear (New Brunswick)

Badshaw Centre (Quebec)

Sir James Whitney Centre (Ontario)

Foster Care- the researchers, in consultation with the LCC and the study panel, selected foster care as a secondary site. Foster care is the prime alternative currently available as institutions that have served children have closed. However, there is cause for concern that foster care, far from being a comforting alternative to institutions, has its own serious shortcomings in terms of ensuring quality care for vulnerable children.

In selecting the secondary institutions on which the review would focus, related documents were sought and reviewed. This included public and private inquiry reports, compensation program reports, program evaluations, and a host of other information (e.g. academic papers, personal accounts, relevant books, etc.). Interviews were held with survivors of two of these institutions, and about 30 interviews with persons knowledgeable have taken place with respect to these cases.

4.4 Identifying / Accessing Survivors

The consultant identified key contacts or 'friendly sources' in each primary institution studied, to assist in contacting survivors to be interviewed. These friendly contacts took on the following tasks: identifying appropriate people to be interviewed, using criteria developed by IHRD; making a first contact to explain the project and obtain permission to be contacted by an interviewer; suggesting other informants, and; providing background information to the consultant. In terms of providing names of potential interviewees, an emphasis was placed on deselecting any person who, in the judgement of the friendly contact, was at particular risk of harm from the interview process itself.

The intention was for a list of survivor names, with their consent, to be forwarded to the interviewers, from which they would select randomly. This was altered somewhat. The friendly contacts were, for the most part, helping the researchers through a commitment to the issue and the project, on a volunteer basis. It was deemed too great a burden to expect them to contact 30 survivors in order to obtain a sample of 20. Further, when survivors indicated an interest in participating, and met the study's criteria in the view of the friendly contact, it was determined they should be interviewed.

4.5 Identification and Preparation of Interviewers

All interviewers were professionals with extensive experience in the child abuse field. They were recommended by local service providers as being knowledgeable and sufficiently distant from the situations so as to be, and be seen to be, neutral and objective.

A process of preparation for interviewers was adopted and included: initial orientation; information package (including the questionnaire to be used, an interviewer's guide, a consent form, and a project description, all included in the appendices of this report); testing of the instrument and the recording of the interviews, and; ongoing consultation. Because of the staggered start of the interview process in the various situations, the planned training session with all interviewers traveling to a central location did not occur.

4.6 Interviews with Survivors

The researchers identified several considerations in interviewing survivors of institutional child abuse. These included:

- the priority of safety over scientific rigor- the interviews had a potential to be a re-victimizing experience, and this needed to be accepted, and efforts made to minimize these concerns;
- interviewers need to be skilled in crisis intervention in order to respond to emergent concerns;
- some choice in interviewers, with particular emphasis on gender and / or ethnicity;
- selection of interviewees were contingent on follow-up supports being available;
- allowing survivors to have support persons present during interviews, and;
- limits of confidentiality were clearly explained to participants- this relates primarily to the existing reporting laws with respect to child abuse and self-harm.

As the study progressed, there was a concern expressed by some interviewees about what they perceived as "appropriation" of their stories by the researchers. It was determined, after consultation with LCC, to make available to all participants an executive summary of the findings with respect to the institution in which they resided.

Initially, the researchers intended to interview all survivors in person, for reasons of safety and quality of interviews. However, early on it became apparent that many survivors preferred to be interviewed by telephone. The use of telephone interviews also allowed for

a broader geographic representation of survivors. In the end, about 35% of the interviews were conducted by telephone.

The interviews with survivors utilized a semi-structured questionnaire (see appendices). This protocol received much revision through input of the Study Panel. Tests on the instrument were conducted in person and by telephone prior to the overall series of survivor interviews, with select survivors agreeing to complete the questionnaire, and to assess the protocol and process.

4.7 Interviews with Other Informants

While the views of survivors are seen as the primary data source, the review also sought information from other informants. These included: lawyers; police; peer support groups; therapists; victim services workers; family members; compensation program staff; academics, and; journalists. In primary institutions, interviews were held with between 5-10 informants, while in secondary cases that number was between 3-5 persons. In total, about 65 interviews took place.

A protocol was developed for these interviews. It was vetted by the Study Panel, and is appended to this report.

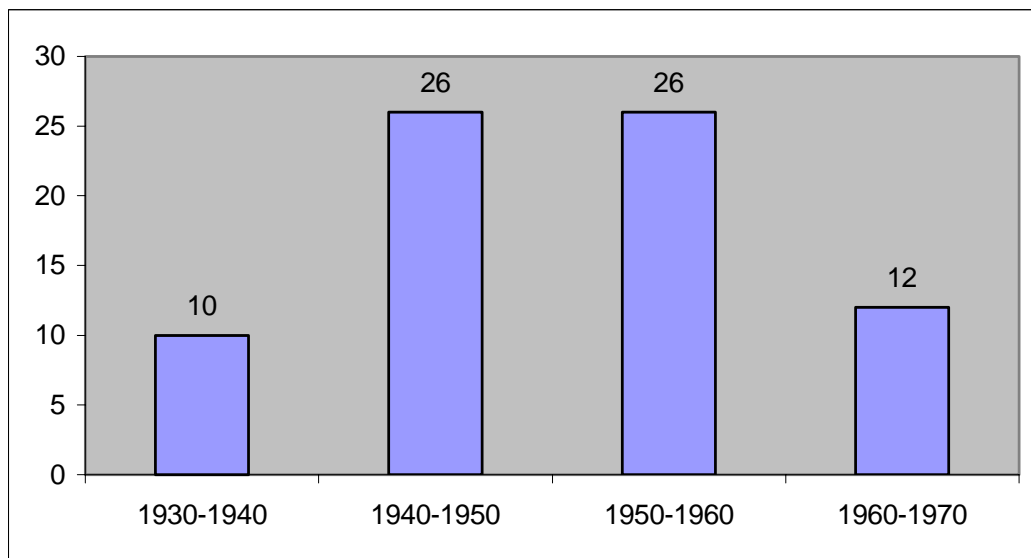
4.8 Reports

This document represents the final of four reports associated with this review. A Design Report and a Literature Review have been previously completed, as was a findings report. Ongoing contact with the Law Commission occurred on at least a bi-weekly basis.

DEMOGRAPHICS

Mt. Cashel
Grandview
Duplessis
Nova Scotia
Alberta
St. John's/St. Joseph's
James Whitney

BIRTHDATE



GENDER

46 Males
46 Females

RACE

9 Aboriginal
6 Visible Minority

5.0 FINDINGS

This section will present findings with respect to each of the legal and related processes in response to instances of institutional abuse. Emphasis is on the primary institutions, though information from secondary cases is included, as is a separate section on foster care. The reader will note that in each section, there is a description of the results of the survivor interviews, other interviews, and other literature / documentary evidence.

5.1 Legal Processes

5.1.1 Police Investigation

- “ They (police) tracked me down. There should have been supports on site. One officer gave me choices; the rest were like vultures.” (Mt. Cashel survivor)
- “ I heard about the police investigation on a news program. I contacted the Attorney General’s Office and was referred to the RCMP (Operation Hope). I wanted to back up others who had come forward, that these things had really happened. (Shelbourne, Nova Scotia survivor)
- “ The police stayed for about four hours. I got the impression they did not believe me, but they were alright with me. In the end, it was a waste of time” (Duplessis survivor)
- “ Police came to the door unannounced. And asked sexually explicit questions with no female officer present. ” (Grandview survivor)
- “ Police officer was respectful; allowed me time to collect my thoughts. I had choices about where I was interviewed. They were very thorough.” (Grandview survivor)

Finding: For many survivors, their initial disclosure of abuse was in response to contact initiated by police. Survivors’ experiences with police range from supportive and professional to demeaning and intimidating. Most of those surveyed to date were unsatisfied with their treatment by police. Police investigations brought up painful memories for most survivors, which was distressing.

Finding: In several instances, it was reported by survivors that their information given to police was limited by a fear that they, or other survivors, might be charged for abuses which occurred between residents while they were children in the institution, as there was no amnesty in place for these occurrences.

Survivor Perspectives

For many survivors, the first police contact was unannounced and intrusive. Several people reported being initially approached at work or at home, leading to embarrassing situations with colleagues and family. Further, many survivors described going through the painful process of being interviewed by police, with no follow-up supports in place or offered. This lack of support left several survivors with the feeling that the police interest was in their information, not their well being. Several indicated that the police involved were not sufficiently trained in issues of dealing with survivors of institutional abuse.

Many survivors felt the police treated them as if they had done something wrong. In some instances there was a sense that the police were protecting the authorities (e.g. Duplessis, Jericho Hill). In Mt. Cashel and Nova Scotia, there was concern expressed that there were too many investigations (in each case, there was an investigation in support of an inquiry as well as a criminal investigation).

For some survivors at Mt. Cashel the main investigating police officer has been the consistent source of support over the past ten years. In the case of Grandview, there was concern about the lack of female officers involved initially, and this led to changes which were very well received by survivors, in terms of feeling supported and believed. In the Nova Scotia case, there were three separate investigations. Survivors report satisfaction with the efforts of the inquiry investigators and the RCMP "Operation Hope" investigation, but are highly critical of the Internal Investigation Unit (IIU) (e.g. disrespect, treated like criminals). The IIU was established by the provincial justice department in response to concerns about fraudulent and exaggerated claims when the ADR program was implemented. Of those survivors who had contact with the IIU, none were satisfied with process or outcome, with almost all being very unsatisfied.

In the case of the Duplessis Orphans, all but one of those surveyed were very unsatisfied with the process and outcome of the police investigation. Several felt they were treated decently by the police, but others described the police as only interested in protecting the state and the Church.

Overall in the review, for those survivors whose information led to criminal charges, there was usually some measure of satisfaction. Those who gave information to the police which did not result in charges, expressed bitter disappointment.

The most consistent concern offered by survivors about the police investigations was the absence of available supports to assist survivors in the process. This led to great distress for people, and several participants indicated that their lives were totally disrupted in the process. The fact that for many the timing of disclosure did not involve a conscious choice on their part added to the distress. Survivors described suicidal feelings, mental health crises, drug and alcohol problems and relationship concerns arising from the prompted

disclosure of their abuse. This is not to say that some people were not experiencing problems prior, but that any existing issues were made worse.

About ten percent of the survivor group did not participate in a police investigation. The reasons offered included: no trust in police; not aware that charges could be laid; the police tried but were unable to locate them.

Other Informants/ Literature

Other review informants expressed concerns about the police investigation process. There was general agreement that the use of involuntary or prompted disclosure should be avoided if possible. It is considered too intrusive. The approach used in St. John's/ St. Joseph's, where self-disclosure was emphasized (through invitation in the media), is preferred.

The methods used to attempt to address the gathering of evidence with respect to persons with disability were roundly criticized by informants. In the case of Jericho Hill, the police response, over several years, was described by informants as inadequate and at times unprofessional.

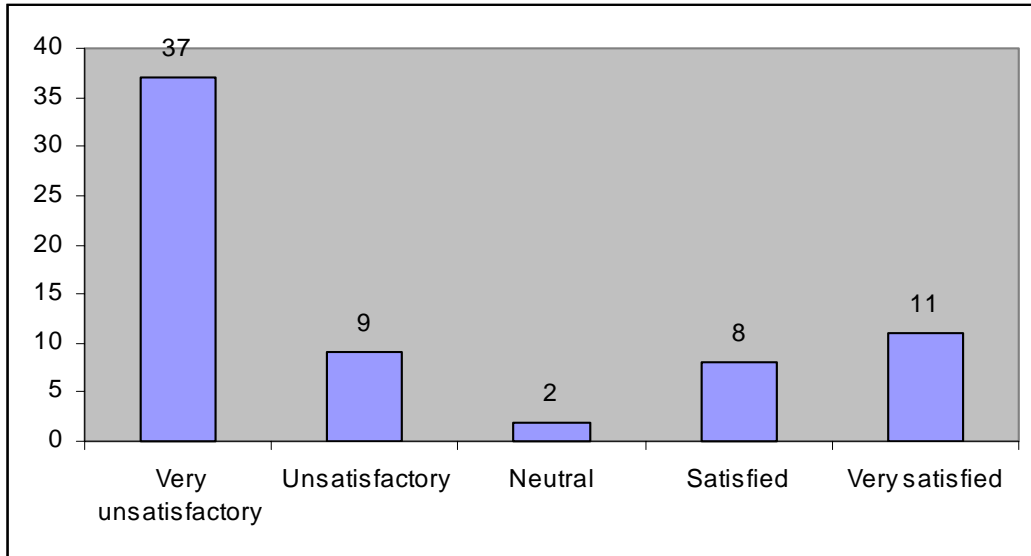
For their part, the police describe a difficult balance between encouraging survivors to tell their stories and maintaining accordance with investigative procedures. There was some concern about tainting of evidence, in having complainants discuss their situations with support persons (e.g. victim services staff, therapists) before they had gathered all required information. It was clear that in some situations (e.g. Mt. Cashel, Grandview initially, Duplessis, Jericho Hill) there was little if any awareness or consideration for the needs of survivors in giving evidence, in terms of planning for support. Individual officers varied widely in their responsiveness to the survivors, and it is clear that receiving such support depended on having a sympathetic officer, as opposed to a planned approach on the part of police organizations. When the circumstances involve persons with disabilities, these issues are further complicated.

An issue that arose with some survivors is that of children abusing other children in the institution. Some survivors noted that they were less candid than they might have been in their information to the police because they were afraid they would be charged for their own behavior. There was a suggestion of an amnesty for residents of institutions who were abused there for any abuses they might have perpetrated while still resident there

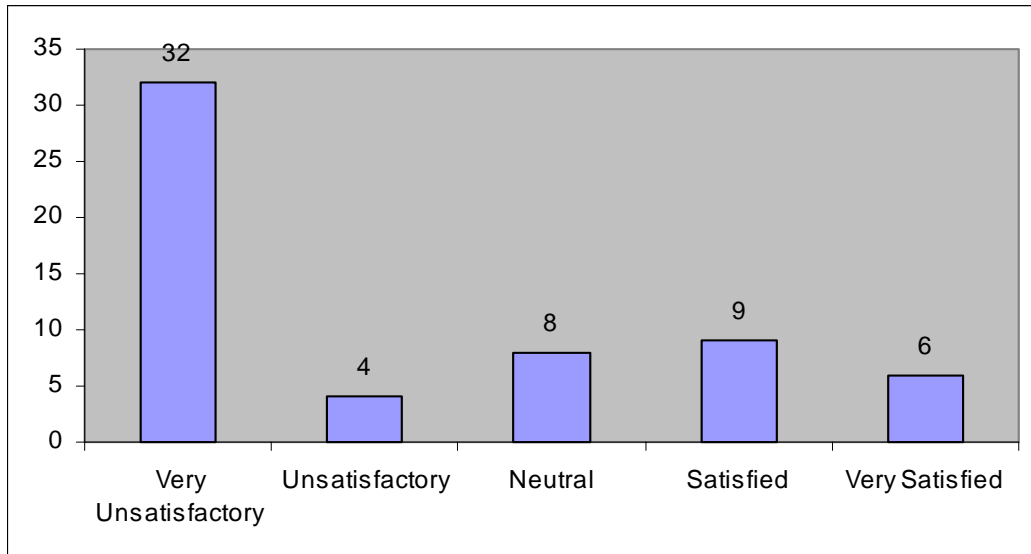
The literature emerging on police investigation suggests the standard is for officers trained specifically in abuse cases, and for specialized units. Some informants in this review noted that in addition to general training about abuse, these officers also require specific training in investigating abuse in institutions.

POLICE INVESTIGATION
Overall

Level of Satisfaction Regarding *Process*



Level of Satisfaction Regarding *Outcome*



5.1.2 Public Inquiry

- “ I felt comfortable with the judge and the investigators. They were sensitive and understanding.” (Shelbourne survivor)
- “ It became too public. It should have been done more privately between judges, victims and offenders. There should have been more consideration for their feelings. The media blew it out of proportion and made it into a circus.” (Mt. Cashel survivor)

Finding: Public Inquiries are seen by survivors and others to have served their main function, namely to inform society about matters of importance. However, where inquiries have occurred, there has been a range of satisfaction on the part of survivors, in terms of process and outcome.

Serving the public interest by assessing the circumstances of the matter under consideration is the overriding concern of a Public Inquiry. Victim / witnesses present evidence which contributes to the preparation of a report to government and the public. The focus is on the objective of inquiring into matters of public concern not with the victim / witnesses as individuals.

There are two primary examples of public inquiries in the primary cases, The Hughes Inquiry and the Stratton Inquiry. They are contrasted in terms of their performance in addressing survivor needs and interests in both process and outcome.

The Hughes Inquiry was the first of its kind in response to institutional child abuse in Canada. Most survivors interviewed who participated in the Inquiry reported being unsatisfied with both the process and outcome. In fact only one person of nine reported being satisfied with either aspect. Several felt they had no choice but to participate, and that the highly public nature of the proceedings (carried each day on television) was revictimizing. There were no on-site professional supports in place, the investigations were described as intrusive, and there was general discontent at how survivors were treated as opposed to other witnesses. One survivor recounted being on the stand for five days. Another reported waiting for several days to give evidence and then being cut off because his information was repetitive to prior witnesses. The fact that the offending Christian Brothers were able to avoid testimony was a source of great frustration. Most felt the full truth did not come out of the Inquiry, and that government officials especially were not taken to account for their actions from 1975 onward, when several boys had first given statements to the police.

Other informants confirm that the Hughes Inquiry was a process that did not well serve the survivors. As a “ public spectacle” it placed these men in highly vulnerable situations and did not sufficiently address their needs. Some described the approach as “ dangerous” to

the well-being of survivors. Clearly, the people involved had little prior idea, and no reference points in terms of other cases, of how to responsively deal with the needs of survivors during the Inquiry.

The survivors who participated in the Stratton Inquiry had a different experience. For them, the investigators and the judge were described as “sensitive and understanding”. Two thirds of those interviewed who had been involved in the Inquiry were either satisfied or very satisfied with its process and outcome. The process protected privacy which was important to some participants. Some survivors did express difficulty in telling their whole story at the Inquiry, stating they were not ready at that time. Some survivors believe the Inquiry was too private and should have been more public, or at least more publicized by the media.

Other informants were also pleased with the way the Stratton Inquiry proceeded. It was a general sense that a respectful process was used, and that survivors were reasonably treated. However, some expressed concern that after almost three years, no charges have been laid in connection with the institutions involved.

In the case of Jericho Hill, a private inquiry and ombudsman reports were undertaken. The Berger Inquiry resulted in a clear acknowledgment of abuse at Jericho Hill School. However, its mandate did not include physical abuse, and its report was initially only presented in the written word, which restricted access to the deaf community. (Many deaf persons have not been trained in the English language as practiced by hearing persons.) This inquiry has been criticized as being too narrow in focus and because Berger recommended that the government accept responsibility but not liability for the abuse, meaning no apology for survivors.

About 20% of those interviewed did not participate in a public inquiry, even though there was one in their case. The reasons for not participating included: didn't want to expose the family; no interest; in prison; concern about the public nature of the process. One informant from Grandview was adamant that a public inquiry should have been held in that instance. The Duplessis survivors offered similar comments.

Literature on public inquiries in cases of institutional abuse suggest several disadvantages to this approach, many of which are in keeping with the views of survivors and other informants in this review. Roger Tucker (1994) listed the following disadvantages:

1. The process takes too long, delaying resolution.
2. There may or may not be convictions.
3. The institution doesn't have a reasonable opportunity to present their view of the situation.
4. The victims, not the offenders, are the ones compelled to testify.

5. Both victim and perpetrator have little opportunity for control in this process, which makes it disempowering and revictimizing for victims.

The Turquetil Hall Investigation report, about the Sir Joseph Bernier Federal Day School, polled former residents on both advantages and disadvantages to the use of public inquiry in that case.

Advantages

1. Public airing of facts and grievances lends credibility.
2. Increases the political power to compel reluctant participants to be accountable.
3. An inquiry forms part of a more general healing process in validating the experiences of those who choose to participate in it.
4. It raises public awareness of the general issues and the particular experiences of survivors.
5. Its recommendations may assist the survivors in receiving resources to help them.
6. It assists in designing solutions.

Disadvantages

1. It uses resources that could be put to use to help survivors.
2. Its formality and publicity may discourage people from coming forward.
3. It doesn't help with the traumatization of survivors in the process; there is no one in place to pick up the pieces.
4. Inquiries benefit inquiry members, lawyers and consultants, but not survivors.
5. The reports from inquiries get shelved.
6. They take too long and have no discernible result.
7. We know what happened and don't need an inquiry to find that out.

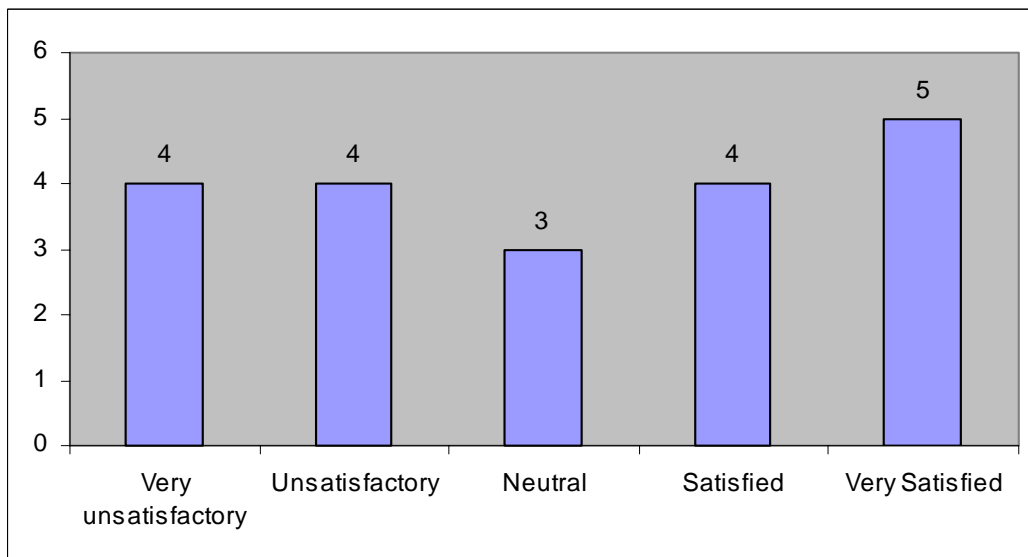
PUBLIC INQUIRY - (overall)

- Note: there were very different experiences between survivors from Mt. Cashel (generally unsatisfied) and Nova Scotia (generally satisfied).

Level of Satisfaction Regarding *Process*

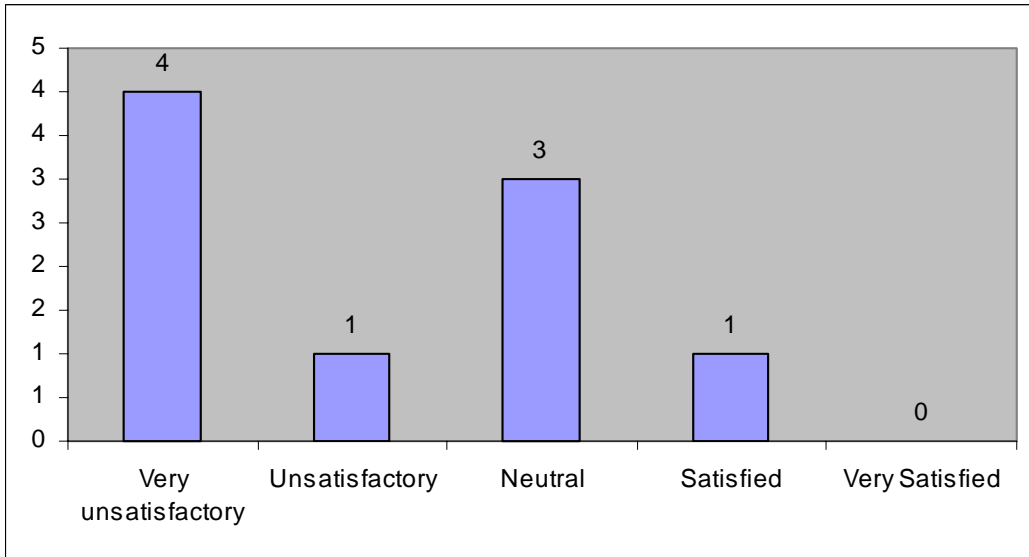


Level of Satisfaction Regarding *Outcome*

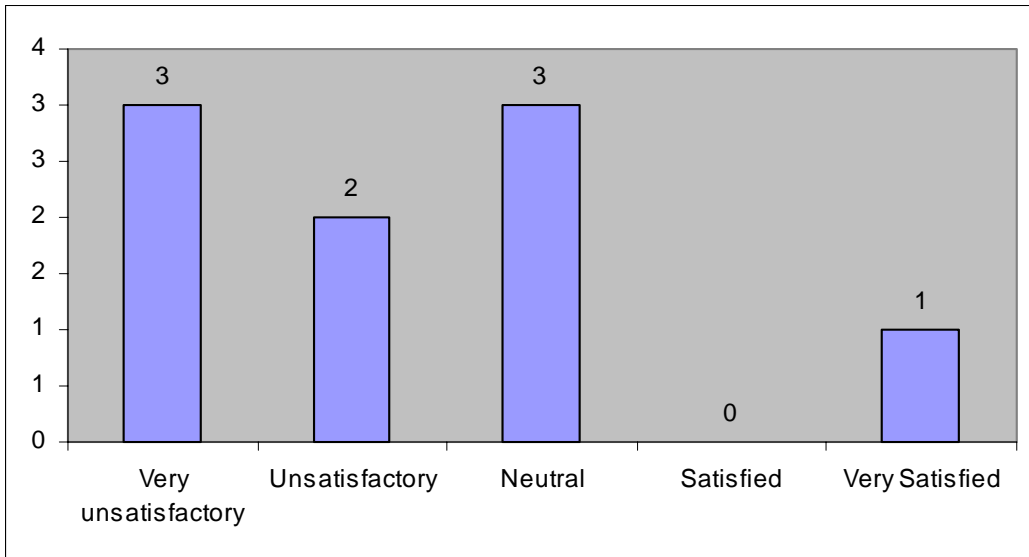


PUBLIC INQUIRY
Mt. Cashel

Level of Satisfaction Regarding *Process*

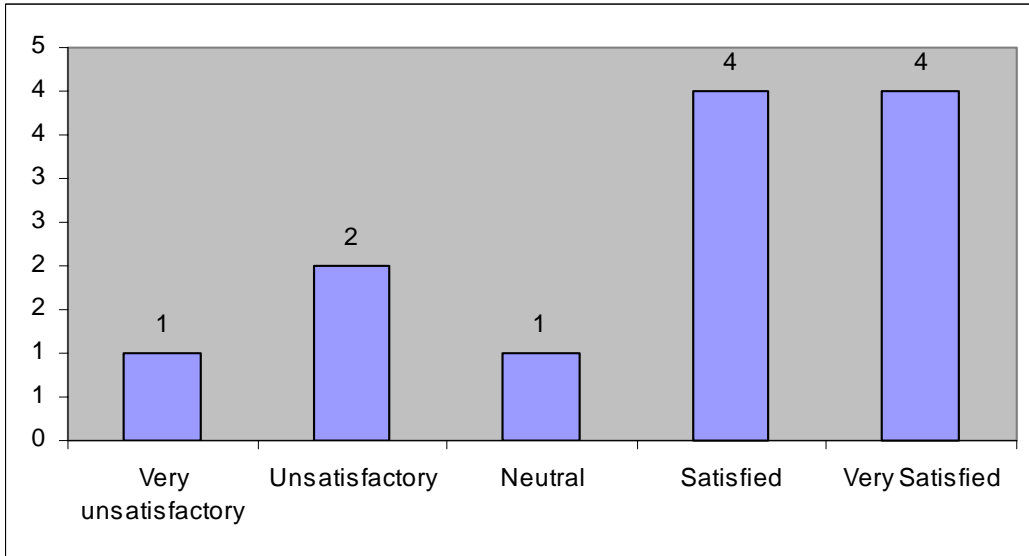


Level of Satisfaction Regarding *Outcome*

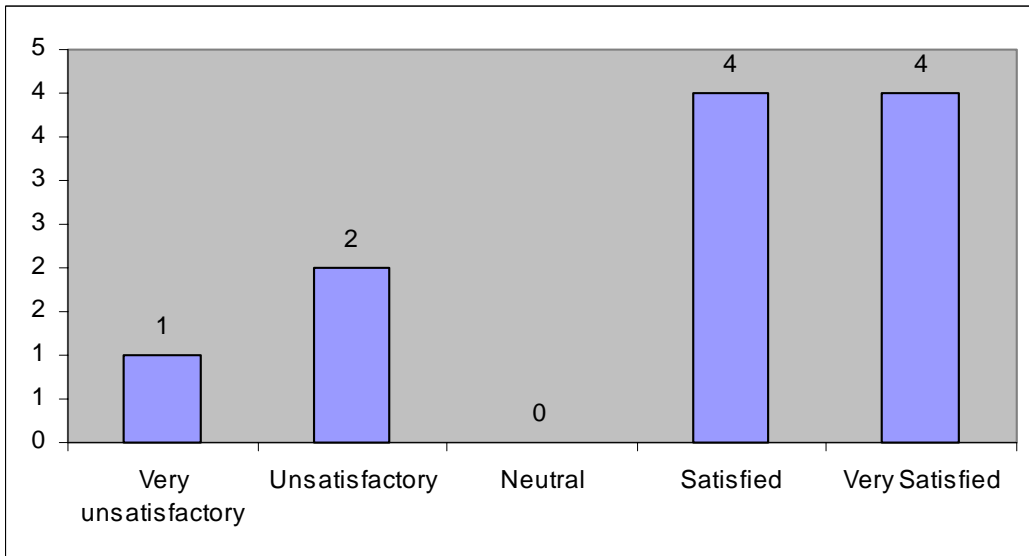


PUBLIC INQUIRY
Nova Scotia

Level of Satisfaction Regarding *Process*



Level of Satisfaction Regarding *Outcome*



5.1.3 Criminal Trial

- “ I went to court and met with the crown attorney. I learned about how much detail they would need, so they could prove the girls were telling the truth and not be accused of false memory syndrome. I decided to pull out. ...(felt court process was intended to)...prove we were all liars.” (Grandview survivor)
- “ There was no support while going through the trial. They brought me in here, threw me in a cage, and I just waited to go to court. I’m very unsatisfied with the consideration of victims, but satisfied with the fact he got convicted.” (Shelbourne survivor)
- “ At the preliminary inquiry, I had no supports. Supports at the trial were excellent, couldn’t have testified without supports. Crown attorney excellent.” (Mt. Cashel survivor)

Finding: Criminal trials are concerned with determining guilt or innocence of accused persons. Accused persons are given protections to ensure their legal rights are not violated. This is very distressing to survivors, who have not rights during the trial. They do not feel that the process attends adequately to their needs. Convictions are linked to satisfaction in terms of outcome. There is a general dissatisfaction with the length of sentences.

Finding: About one fourth of the survivors interviewed for this study who were able to pursue criminal charges chose not to do so.

Perspectives of Survivors

Survivors initiate the criminal trial process by making a statement. Subsequent to this event, the case belongs to the Crown to advance, not the survivor. The survivor has no status other than as a witness, from this point forward. Far from being empowering, the process tends to be, and is generally accepted by those knowledgeable as being, traumatizing and revictimizing.

There were trials in four of the cases reviewed (Grandview, St. John’s / St. Joseph’s, Mt. Cashel, and Kingsclear). Of the respondents in Grandview, four were involved in criminal trials. All were unsatisfied or very unsatisfied with the process and only one was satisfied with the outcome of the trials. There were concerns that restrictions were placed on survivors in terms of getting support from other survivors, because of fears that it would be seen as “tainting evidence”. The process was described by one as “invasive and victim-blaming”. There was some praise for individual officials involved, for their support.

In St. John's and St. Joseph's, the two survivors interviewed had access to a victim services program. Neither of the respondents were dissatisfied with the process of the trials, although they were less satisfied with the outcomes. There were comments that sentences should be longer, and that concurrent sentencing not be used.

In Mt. Cashel, a support program was implemented, to assist survivors in court during the main trial processes. The responses are quite mixed in terms of satisfaction with the process and outcome. The combination of police, crown and counselling supports were positive to some, although others felt alone in the process. The treatment of accused at the courthouse, in terms of being offered private space during breaks, was resented by survivors. Treatment by defence counsel was criticized, particularly with respect to cross-examination tactics employed to discredit them. The verdicts and sentences produced a range of responses from the survivors, directly related to the outcome.

In the Mt. Cashel case, survivors related stories of lost wages and jobs in coming back to the province to participate in the trials. The provincial Jury Act did allow for some expenses to be covered, but the process did involve financial hardship for some men. It is understood that provisions to offset costs to survivors to attend trials are not generally available across the country, nor are statutes in place to allow for this to occur.

In the remaining cases, there have been some criminal trials but not on a large scale and often not of the primary alleged offenders. One of the Duplessis survivors laid a criminal complaint resulting in a conviction. There are charges expected soon in the Nova Scotia situation (one of the cases reviewed by the Stratton Inquiry, involving a probation officer, has resulted in conviction). In the case of Jericho Hill, the only charges to be laid to date, other than against a visiting dentist, have been against former residents for abusing other residents.

About 25% of the survivors interviewed who could have pursued criminal charges did not participate in a criminal trial. The reasons offered for this decision included: that they were too upset emotionally; that they believed they would be the one on trial, and; they had no faith in the system to prosecute the matter.

Other Informants/ Literature

Other review informants were split on their opinions about criminal trials. While most acknowledge they are very difficult for survivors, lawyers in particular tended to embrace the view that if trials are to be used, their present form must be defended so as not to undermine the existing principles of the law (e.g. the presumption of innocence, the right to a rigorous defence, etc.). Non- lawyers tended to challenge this view, and to hold that there should be some clear protections to survivors that do not now exist, in order to balance the system's response.

Almost all informants did agree that the existing criminal justice system was not developed with cases such as institutional child abuse in mind. The system does not easily extend itself into this type of situation. When there is a conflict with the interests of the accused and the survivor, the survivor needs are the ones which are generally minimized or denied. Recent innovations such as victim witness programs, victim impact statements, and participation in parole board hearings, were generally seen as positive but insufficient developments. Notably, there were few alternatives offered to the criminal trial system.

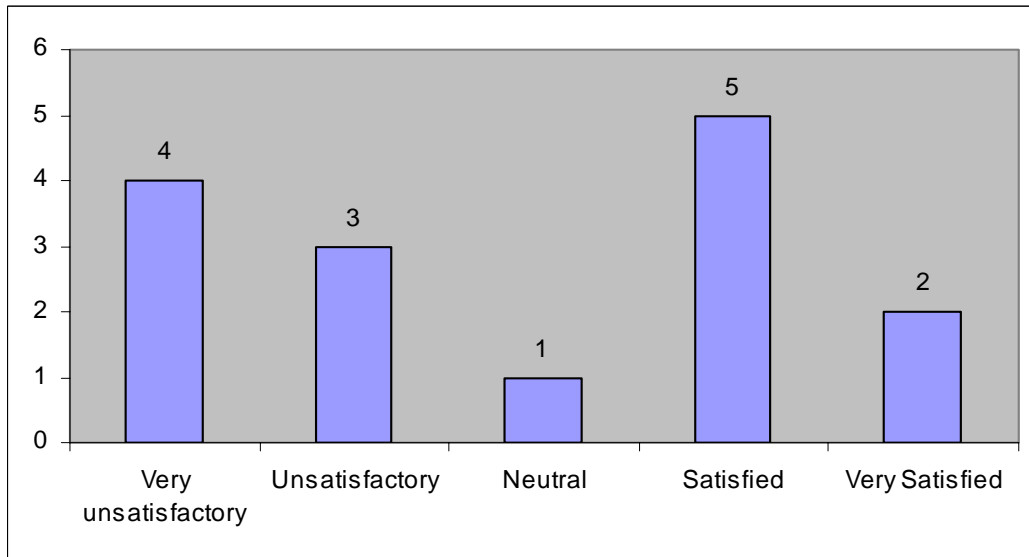
The literature on criminal trials clearly states its revictimizing impact on survivors. Further, it suggests that while improvements have been made to how survivors are treated, there is much more that could be done. Rix Rogers, reporting as the Special Advisor to the Minister of Health and Welfare on Child Sexual Abuse in Canada, in 1994, made 30 recommendations concerning how the justice system handles these matters. These included: victims should not have to delay treatment pending the outcome of a criminal trial; that videos and closed-circuit television be used more frequently; that counsel be in place to support victim's interests; physical structures be in place at courthouses to provide private space for survivors; that judges receive pertinent training; and that a study be undertaken encouraging an ethical code for lawyers dealing with child abuse.

CRIMINAL TRIAL

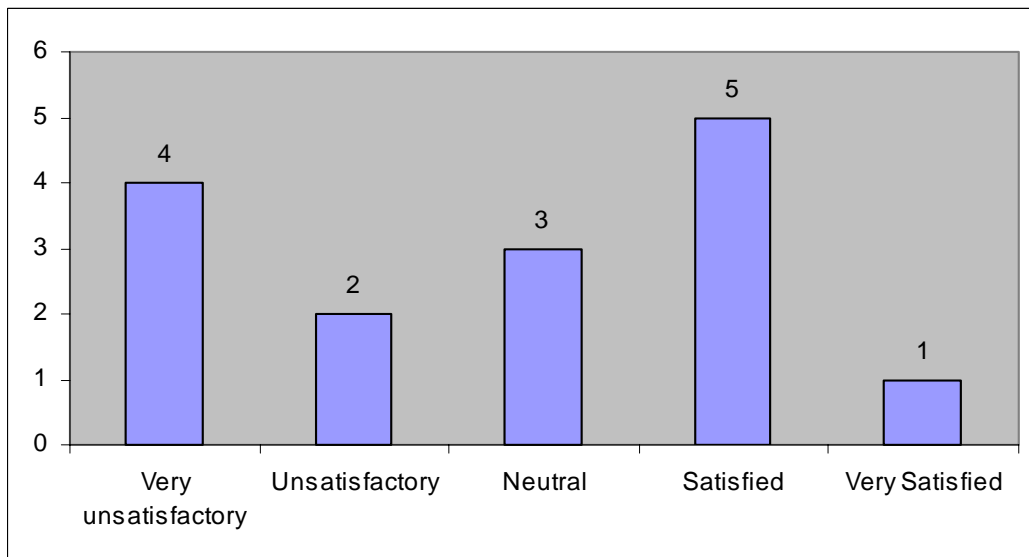
Mt. Cashel
Grandview

Duplessis
James Whitney

Level of Satisfaction Regarding *Process*



Level of Satisfaction Regarding *Outcome*



5.1.4 Civil Suit

- “ I was afraid that by coming out I would hurt others who were in there with me. I became a stronger person by coming out. I had good lawyers. Others need lawyers like mine who will fight for them.” (Michener Centre survivor)
- “ I’m fairly satisfied. I didn’t know whether there would be anything- I just wanted it to end. It got out of hand (money was not the reason for me coming forward). The government should have forced the Brothers to settle.” (Mt. Cashel survivor)

Finding: Formal civil suits are difficult for survivors in terms of process. They can take years to resolve, and enhance stress through the retelling of the story inherent in assessments and discovery procedures.

Awards of damages to compensate survivors of institutional abuse are relatively recent in the Canadian courts. Civil actions have had to overcome several impediments in the law, such as concerns about limitation periods, which are largely resolved. Child abuse and its impacts, and even more so institutional child abuse, are emerging areas of law. While there remain inherent difficulties in pursuing these civil cases, they are becoming more familiar.

Civil suits occurred in 4 of the cases reviewed (Mt. Cashel, St. John’s / St. Joseph’s, Nova Scotia, Michener Centre). A class action suit is being pursued in Jericho Hill and Duplessis. About ten percent of those survivors interviewed, in cases where there was a civil suit, did not get involved. The reasons expressed included: didn’t know that option existed; can’t afford to fight government on my own; found my own route.

The survivors of Mt. Cashel interviewed were evenly split between being unsatisfied and satisfied with both the process and outcome of the civil suits. The lawyers for the complainants involved were well regarded by several survivors. There was appreciation for financial assistance during this period, which spanned eight years. However, as they were part of a group, two felt pressure to settle for less than they believe they were entitled to receive. Most felt the process was too long, and blamed the Christian Brothers for delaying settlement.

Other informants knowledgeable of Mt. Cashel observed that the civil process was grueling for the survivors. The Hughes Commission had encouraged government to settle the compensation issue in a timely manner, which did not occur. The only funds received by survivors until the final settlement was a small award under a Criminal Injuries Compensation Program, for those who applied. In fact, the Newfoundland government has paid all of the compensation to survivors and is still attempting to recover the share (assumed to be half) owed by the Congregation of Christian Brothers.

Most study informants believe the civil suit is a poor mechanism for addressing survivor needs. It is generally seen as a long, arduous process, in an adversarial environment. In the case of Duplessis, a class action suit was apparently stalled due to a lack of funds. However, informants in the Jericho Hill School case say a class action suit is the only way to publicize the plight of survivors not eligible for the Jericho Compensation Program, and their families.

Some lawyers interviewed in the review believe that pursuing a civil action can be empowering for survivors. It holds the perpetrator accountable and acknowledges directly the injury caused to a survivor. Also, these informants point out, the past and to some extent current difficulties with putting forth these cases are being sorted out. Future survivors pursuing compensation will likely face less obstacles, they believe.

In the Michener Centre case, a civil suit involving a woman who was sterilized while a child at the Centre, has resulted in an award of about \$750,000. The Alberta government is now in the process of establishing a Settlement Panel to address other cases of sterilization and abuse at the Centre. Informants suggest that the Settlement Panel is an approach of government motivated by a desire to limit liability and keep the case out of the public eye. (Note: Government officials in Alberta refused our request to participate in the review, and the settlement panel was not yet in place at the time of this report).

The literature supports the claim that survivors do not seek civil remedies for monetary reasons alone. As Felthausen, in the Ottawa Law Review in January of 1994 notes, there is often a “therapeutic jurisprudence” in place when survivors of institutional abuse pursue civil action. He believes the motivation is to symbolically hold the perpetrator accountable for their wrongdoing.

Des Rosiers (1992) notes advantages and disadvantages of civil action in cases of institutional child abuse.

Advantages

- It provides survivors with a mechanism to identify abuse.
- Reestablishes the balance of power and the assignment of blame on the defendant if the civil action is successful.
- Process is symbolically important; it may be the only way for a survivor to stop the abuser.
- Process is financially important.

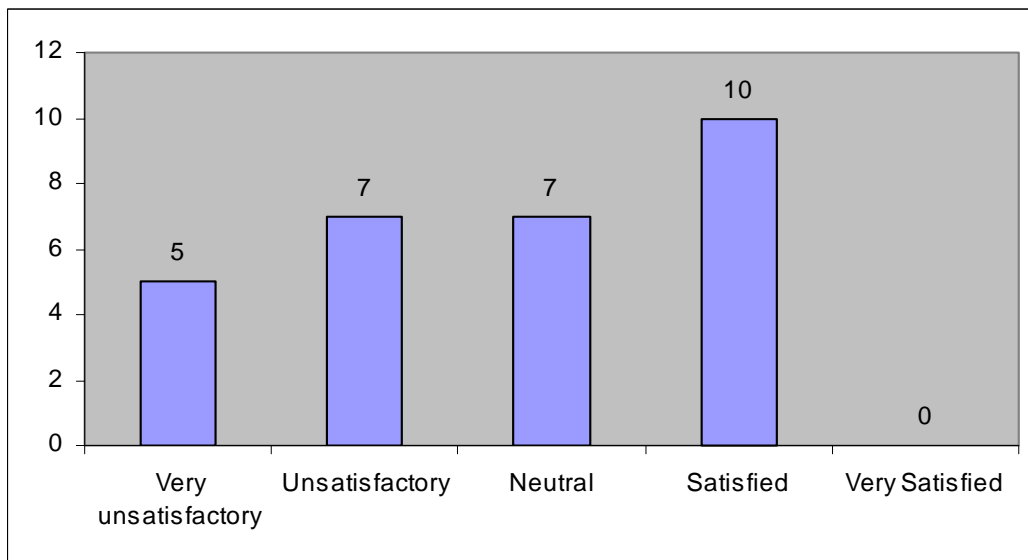
Disadvantages

- Energy and commitment alone may not sustain an individual victim in dealing with an institution.
- The potential liability makes it worthwhile for an institution to invest substantial funds in defending the action. The victim group will likely be marginalised with minimal economic resources.

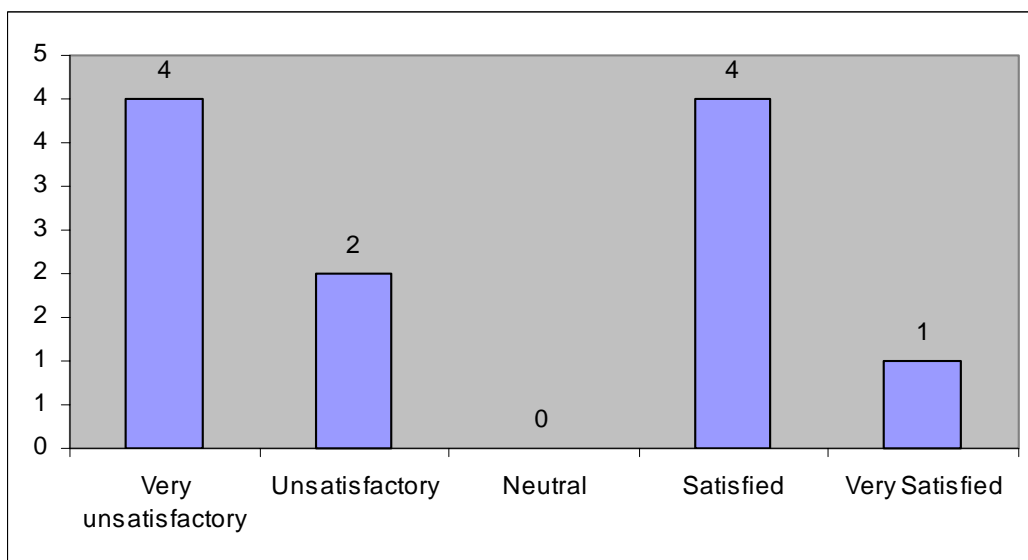
For her part, Nicole Tellier (1994) reports that there are significant barriers to civil redress for survivors of sexual assault. She holds that until the law is reformed to repeal limitation laws, equality guarantees for women and children will remain illusory. Susan Vella (1994), lawyer for survivors in the Grandview case, notes that the Grandview Survivors Support Group, “...recognizes that the current individual- based solutions offered by the civil justice system are inadequate responses to the multi-dimensional problem of institutional sexual abuse”.

CIVIL SUIT
Mt. Cashel
Alberta

Level of Satisfaction Regarding *Process*



Level of Satisfaction Regarding *Outcome*



5.1.5 Alternate Dispute Resolution / Non- Court Based Settlement Programs

- “ It was a crock- politicians were in control- we (victims) were railroaded and the lawyers were bullied.’ (Shelbourne survivor)
- “ Garbage- ADR set up to meet the needs of government not the needs of abuse victims. It only revictimizes victims.” (Shelbourne survivor)
- “ I got an apology, and you can’t put a price on that.” (Shelbourne survivor)
- “ Adjudication process was well paced, adjudicator was sensitive and kind (also glad adjudicator was native)- no pressure. Level of satisfaction was affected (negatively) by the fact that there was no amount of money to make up for Grandview. Also, it seemed unfair that some women got more than others. It might have been better for me and others if money (or at least some of it) was placed in a trust fund. Education benefit most valuable because that was what Grandview took from me.” Grandview survivor)
- “ The government workers were supportive and treated me with respect and compassion. They gave me all the information I needed and were clear.” (Grandview survivor)
- “ Satisfied with the monetary settlement and education benefits, as well as contacts with government employees who were sensitive to survivor needs. Not happy with the process overall; they gave us money so we would go away.” (Grandview survivor)

Finding: ADR, Compensation programs, and settlement panels are emerging as methods of choice in addressing the civil components of institutional abuse.

Finding: Some programs purporting to be Alternate Dispute Resolution approaches are in fact best described as Non- court Based Settlement Programs.

Finding: The levels or grids used in many instances to categorize abuse in order to determine levels of compensation are heavily criticized by some informants as arbitrary and invalid, and are seen by some to result in inappropriately low compensation awards for survivors.

Nature of Approaches

Some alternative / adjunct to civil suits was available in eight of the cases (Nova Scotia, Grandview, Michener Centre, Jericho Hill School, St. John’s / St. Joseph’s, Sir James

Whitney, Grandview, Mt. Cashel). These ranged from interim settlements, to compensation / settlement programs, to more ambitious ADR models.

Some programs describe themselves as being alternative dispute resolution (ADR) in nature. ADR, according to a leading practitioner in the Canadian context, must be about more than lowering transaction costs, and should encompass relationship and shared decision making by groups with similar resources. By this standard, it is clear that few programs qualify to be considered as ADR. It would appear that Grandview and St. John's / St. Joseph's would be the only programs of those reviewed with these characteristics.

For our purposes, then, we will describe all other civil approaches as Non-Court Based Settlement Programs. These are principally designed and administered by government, with varying levels of input by survivors. Their benefits to survivors are described principally as minimizing the trauma of civil suits, and shortening the process. Their real appeal to governments is said by informants to be limiting exposure to damages and maintaining control of the process of resolution and information about the abuse. This is true in the cases of Nova Scotia, Michener Centre, Kingsclear, Jericho Hill School, and Sir James Whitney (although in this case the survivors retain the right to civil suit until after a compensation offer is made).

Alternate Dispute Resolution (ADR)

Survivors involved in ADR approaches have mixed feelings about its benefits. Responses ranged equally across the satisfaction spectrum for the survivors of Grandview. Women were positive about several components of the Healing Package, including: the adjudication process; being believed; education and counseling benefits; the financial award; the staff of the agreement; acknowledgment of abuse by government. However there were criticisms about other aspects, including: the traumatic memories brought up during the process; the strain on personal relationships; the surprise for some of having to pay their lawyer's fees, assuming that government was covering these costs; the lack of a formal apology from government; that government was only interested in "paying off" survivors and keeping them quiet; the perceived unfairness of the financial settlements; the lack of public attention.

Other informants describe the Grandview Healing Package as a progressive attempt to address the needs and interests of survivors as defined by that group themselves. The Grandview Survivors Support Group (GSSG) with its counsel, negotiated the agreement with the government of Ontario. A neutral facilitator was hired to help ensure the parties followed their pre-established rules. In addition to the financial settlements arising from the agreement, there were components which addressed counseling, tattoo removal, access to a crisis line, ongoing funding of GSSG, educational upgrading and training, access to a financial counsellors, ongoing therapy, access to residential treatment programs, career counseling, and access to a contingency fund for other matters. Further, the agreement

included exemptions to the existing social assistance restrictions, transportation and child care costs for those in education facilities, access to monies for computers and tutors for women in prison, monies for an evaluation of the agreement; and a feasibility study for the establishment of a healing centre for survivors (with a professional development and public awareness component).

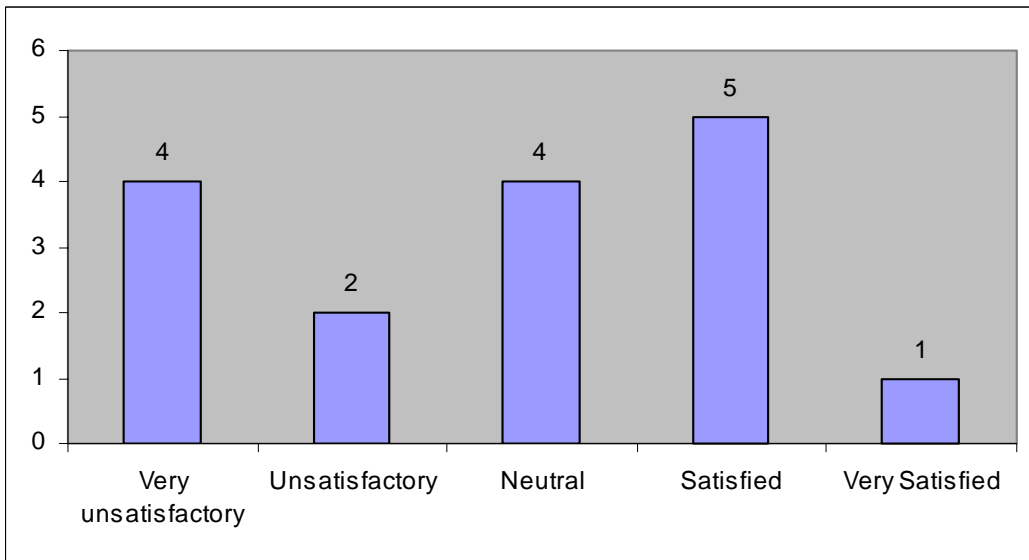
In St. John's / St. Joseph's a somewhat similar process was undertaken, with four additional partners in addition to the survivors (Helpline group) and government of Ontario. These were religious groups representing the Catholic Church and the Christian Brothers in Ottawa and Toronto. The agreement arising out of this process included: apologies from perpetrators and other responsible parties; social assistance exemptions; crimes compensation ; contribution to educational and other opportunities; wage loss; counseling; a recorder to document the processes and history of the survivors, and; research.

ALTERNATIVE DISPUTE RESOLUTION

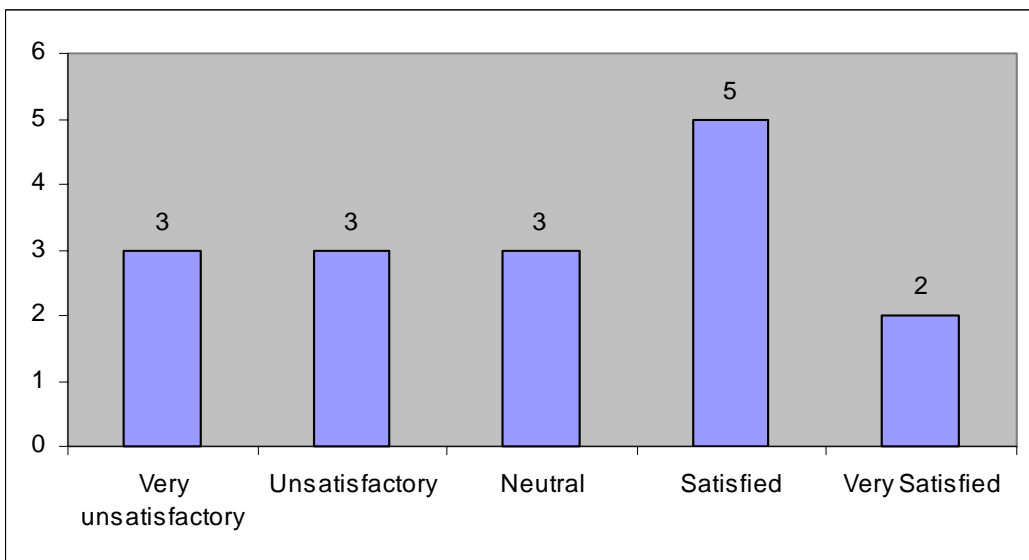
Grandview

St. John's/St. Joseph's

Level of Satisfaction Regarding *Process*



Level of Satisfaction Regarding *Outcome*



- The Grandview Evaluation Report (Leach, 1997) asked survivors to compare the agreement with a civil trial. 88% said the Grandview Agreement approach was better, only 6% said they believed a civil trial would have been better.
- When asked what were the most important elements of the agreement to them, survivors of Grandview said:
 - Having abuse acknowledged by the Government (80%)
 - Being able to tell my story (44%)
 - Financial award (28%)
 - Connecting with other survivors (24%)
 - Not having a civil trial (14%)
 - The benefits (10%)

Leach, 1997

Non-Court Based Settlement Programs

The one Non-Court Based Settlement Program which we have interviewed survivors about was that employed in Nova Scotia. The survivors interviewed were almost unanimously dissatisfied with the process and outcome of the program. The process was seen as too long, not well enough explained, too controlled by government, there were concerns about the compensation grid as being unfair, and the awards were seen as too low. Survivors did not feel empowered in the process, and felt that the program met government's needs, not those of survivors. The major complaint of survivors was that the rules of the program changed after it began, which led to resentment and mistrust.

The criticisms of survivors about the Nova Scotia case are echoed by some informants, about these approaches generally. Government, in this arrangement, retains the ability to unilaterally amend, suspend, or otherwise alter the program. Further, government is spared the expense of mounting a vigorous defence, and of the potential ensuing damages, which if proven, would be substantially higher than the cost of the program. Survivors are not engaged directly as partners in these approaches; rather they are administered directly by government. Further, some programs, such as Jericho Hill and Kingsclear, are limited to sexual abuse only, which many state is too narrow.

In Jericho Hill, the government provides a compensation program. Assessors fluent in American sign language assist the survivor in putting forth an application to a panel. There

is an appeal process. The approach is limited to sexual assault only, and employs a matrix system in awarding compensation.

There is also the issue of public accountability, which most informants agree is minimized under most compensation schemes. Details of the abuse, settlement process, and outcome of awards, are often not put in the public domain. Survivors of all cases we studied were adamant that the public should know what happened, to validate their experiences and to assist in preventing future occurrences.

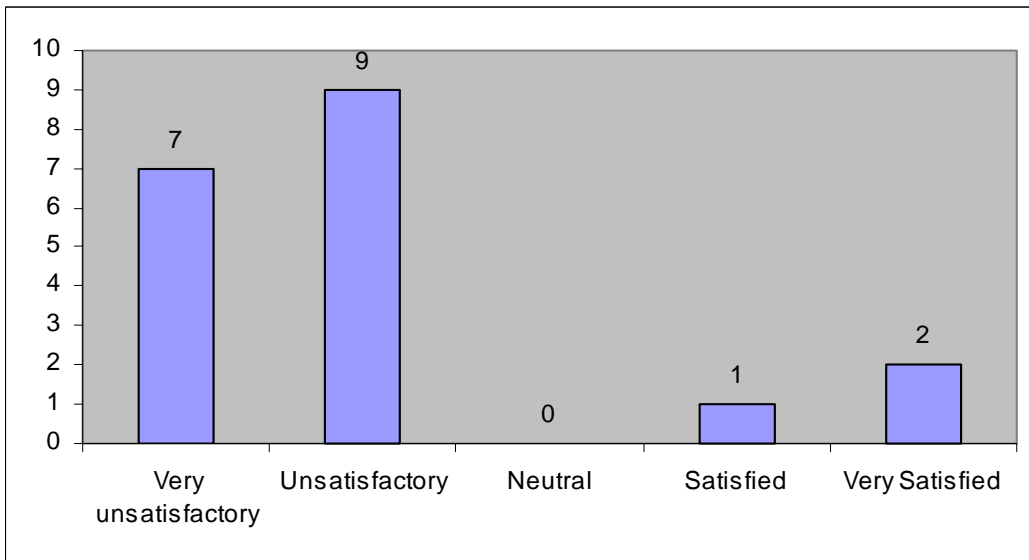
Those in favour of non-court based settlement programs emphasize their role as an alternative to civil litigation, which is said to be painful, expensive, and out of reach for many of the survivors. Such programs are seen as enlarging the gate to include survivors who would not otherwise be likely to successfully sue for compensation. Further, advocates of this approach see it as superior to the ADR methods in Grandview and St. John's, which they describe as cumbersome, inclusive of irrelevant issues in compensation, dependency - creating, and difficult to manage.

NON-COURT BASED SETTLEMENT PROGRAM

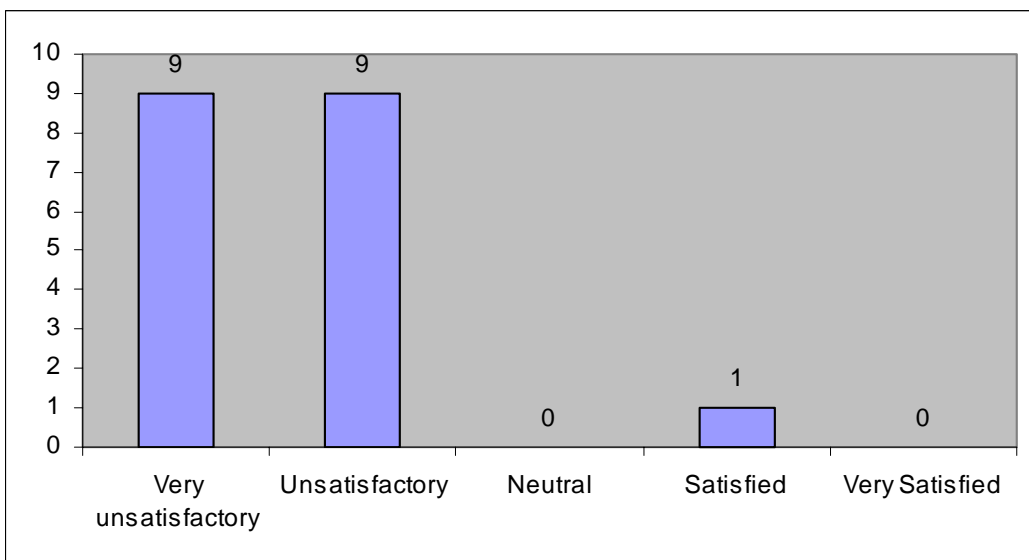
Nova Scotia

James Whitney

Level of Satisfaction Regarding *Process*



Level of Satisfaction Regarding *Outcome*



Interim Compensation / Crimes Compensation Measures

Interim measures of compensation and support while longer-term solutions are arranged have been relatively well-received by survivors. Interim compensation was offered in Mt. Cashel and St. John's/ St. Joseph's. While most Mt. Cashel survivors interviewed were not satisfied with the process, about half of those responding were satisfied with the outcome. For some the process was straight forward; others described it as too involved and unfair (the program ended, meaning some survivors were excluded).

Interim counseling awards were made in the Nova Scotia case. These were very well received by survivors, with a strong majority reporting satisfaction with both the process and outcome of the counseling award. Many reported that this was "excellent" and that the amount (\$5,000) was appropriate. Some other informants were concerned that in order to qualify for this generous benefit, a survivor had to sign away his or her right to sue.

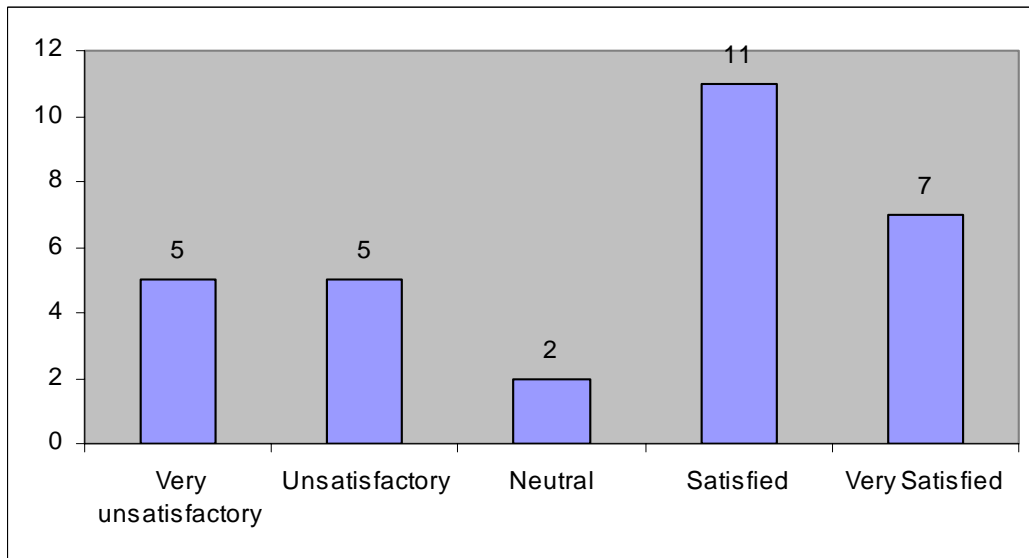
In the Mt. Cashel case, the Christian Brothers funded an interim program of support for the survivors. For those interviewed, this provided a generally satisfactory service. The program offered counseling services, education and related expenses, and special needs funds, for a three year period. For some survivors, there were concerns about the independence of the program, and the fairness of distribution of funds.

INTERIM COMPENSATION PROGRAMS

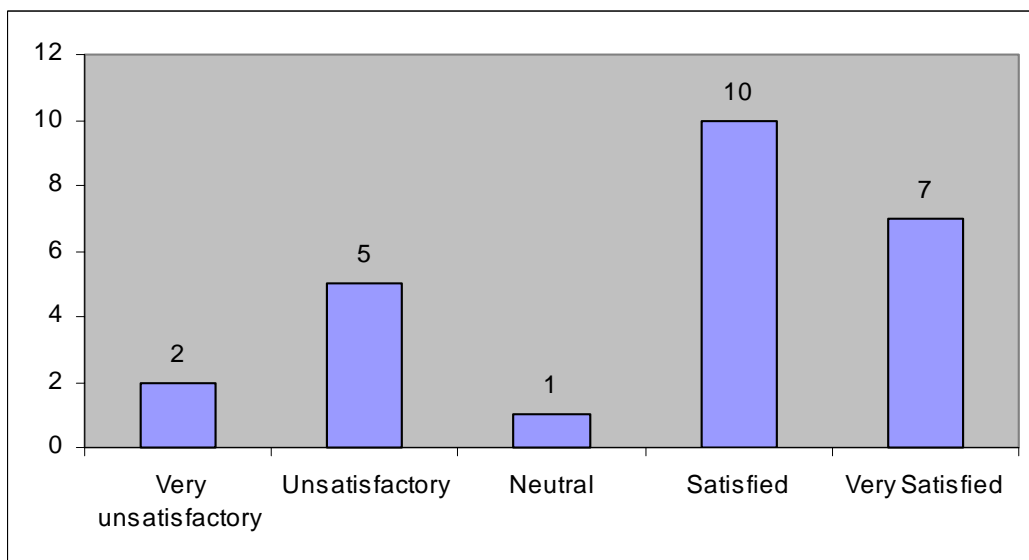
Includes:

- Crimes Compensation in Mt. Cashel,
- Interim Counselling Award in Nova Scotia
- Mt. Cashel Survivors Assistance Program (MSAP) in Mt. Cashel

Level of Satisfaction Regarding *Process*



Level of Satisfaction Regarding *Outcome*



Financial Settlements

In many of the ADR and settlement programs, compensation levels or grids have been constructed which attempt to categorize the abuse in order to award compensation. There are ranges of seriousness of offences (and in some cases of impacts), with mini-ranges of financial awards. For example, in Grandview, the three ranges were \$3,000-\$20,000, \$20,000-\$40,000, \$40,000-\$60,000. In Kingsclear, the upper range was \$120,000, as was the case in Nova Scotia. In the Nova Scotia case, there are 12 categories developed, which are solely determined by the nature of offence as opposed to impact. This is referred to by survivors and others as the “meat chart”.

The issue of determining compensation amounts based solely on severity of the acts of abuse alone was questioned by several informants. There are suggestions that this approach is very different from how compensation is usually determined, in for example car accidents, where the impact is a key determinant. Many informants were suspicious that this allows for government to arbitrarily limit liability at inappropriately low levels, and to appear to be using an objective measure which in fact has no validity.

The psychological literature does not support the view that the more severe the abuse suffered by a person, the greater the damage to them, which would appear to be the principle underlying the use of most of the compensation grids. Finkelhor (1988), in his seminal work, has indicated that the severity and frequency of abuse is but one aspect to be considered in the impact of sexual abuse on a child, with others including powerlessness and betrayal of trust.

In our research, we were unable to determine from any source how the amounts involved in the compensation grids were chosen. That is to say, if there is some derived formula, which attempts to incorporate the body of existing knowledge about child abuse impacts with tort law principles, we did not uncover it. Our belief is that no such formula exists, and that the grids or matrices or level systems are the creation primarily of lawyers acting for governments.

The issue of the nature of payment of financial settlements has no clear consensus among informants. While there is an acknowledgment that some people may make bad decisions with their settlements, more paternalistic approaches (e.g. structured settlements over longer terms), while perhaps helpful in assisting survivors in adjusting to money management, are criticized for promoting dependency. Several programs have attempted to mitigate such concerns by offering financial counselling.

5.2 Support Systems

5.2.1 Counseling

- “ My soul feels like it fits my body again.” (Shelbourne survivor)
- “ It was the only thing government did right in this entire matter.” (Shelbourne survivor)
- “ It saved my life.” (Mt. Cashel survivor)
- “ This was the only satisfactory aspect- it was always available.” (Mt. Cashel survivor)
- “ I had a problem with how therapists were chosen, reporting procedures, and limits on options for alternative therapies, but I had an excellent therapist who was really helpful.” (Grandview survivor)
- “ Overall it is an essential component, but some (including me) have had bad experiences with individual counsellors. (Grandview survivor)
- “If counseling had been available, I would have used it.” (Michener Centre survivor)

Finding: Counseling is seen by survivors and others as the most critical service to be available throughout the process of addressing institutional child abuse. Responses to specific cases have varied significantly in the provision of counselling.

Finding: Counseling represents the aspect of addressing institutional abuse that survivors find the most satisfying in terms of their needs and outcomes.

Counselling was seen as a critical resource by almost all review informants. Survivors in Nova Scotia and Mt. Cashel rate counselling very high in terms of satisfaction. In Grandview, those women who were given access to counseling throughout the process are positive as well, with lesser levels for those women who did not.

About ten percent of those survivors interviewed did not seek counselling. Reasons offered include: didn't need it; not enough choice; handle it myself. Notably, two of these survivors indicated they may use counseling in the future.

The various cases have utilized different entry points for counselling. In Mt. Cashel it was after the public inquiry and preliminary hearings, and was offered as a victim/witness program in the criminal trials initially, as well as through crimes compensation. In Nova Scotia, counselling is awarded on an interim basis as soon as the survivor signs on to the settlement process. In Grandview, counselling was offered throughout the process to the

first group of women who came forward but not the next group. In Sir James Whitney, it will be offered once the investigator's interview has taken place. At Jericho Hill, a provincial mental health program was specifically established to assist survivors of that institution.

Clearly, survivors and most other informants believe counselling, in several forms, should be available from the outset of the process to its conclusion and beyond. The survivors of Mt. Cashel described the devastation of prompted disclosure and the pain of facing the emotional issues it brought forward alone. Other informants described the dangerousness of such an approach. However, there were some police officials, who indicated a preference to complete their investigations before counselling to avoid concerns over "tampering" of witnesses, and some lawyers who raised similar concerns during the criminal trial process.

Therapists involved with survivors discount this concern. They emphasize the responsibility of the state to protect the well-being of survivors of institutional child abuse, especially when it is the state which is prompting their involvement.

Services have been provided by a wide range of professionals. Some are registered professionals, with specific training in dealing with abuse survivors. There are also alternative approaches, some registered and some not. During the course of the review, there was concern raised about the qualifications needed to provide counseling services to survivors. As the survey indicated, several survivors had to search through trial and error to find an acceptable therapist. A few informants suggested that it is not necessarily professional counseling which most survivors need, but an accepting environment that supports their personhood.

One therapist identified five areas in which therapeutic counselling can focus with survivors, and summarizes most of what other therapists said on the subject. The five areas are: the past abuse(s) itself; current issues: the impact of past abuse on the current situation; education and career; and "spiritual" reconciliation in the broad sense. To this, others have added the need for some crisis services at key stress times (i.e. disclosure, court).

Most settlement programs "contract out" counselling services, and offer quality control in approving and evaluating services provided (Nova Scotia is a particularly good example of administering this component). Survivors are usually given choice in selection of counsellors, which is very important. Survivors of Duplessis, for example, did not respond to a government- provided counselling service, due to a lack of trust.

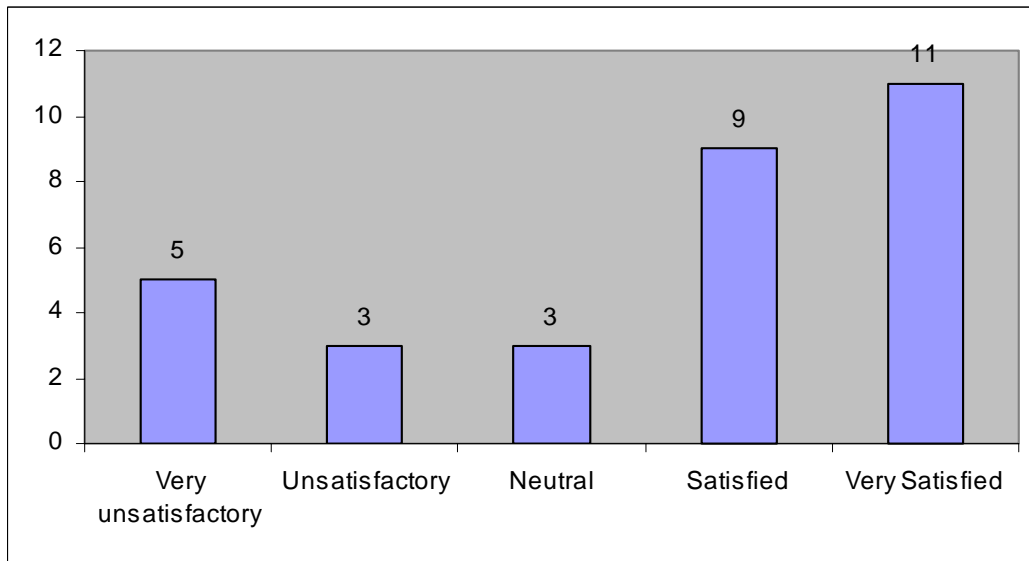
Counselling service awards range from program to program. In all instances, informants believe it is generally money well spent. For their part, therapists suggest that restrictive funding arrangements do not take into account the ongoing nature of concerns that many survivors encounter.

COUNSELLING

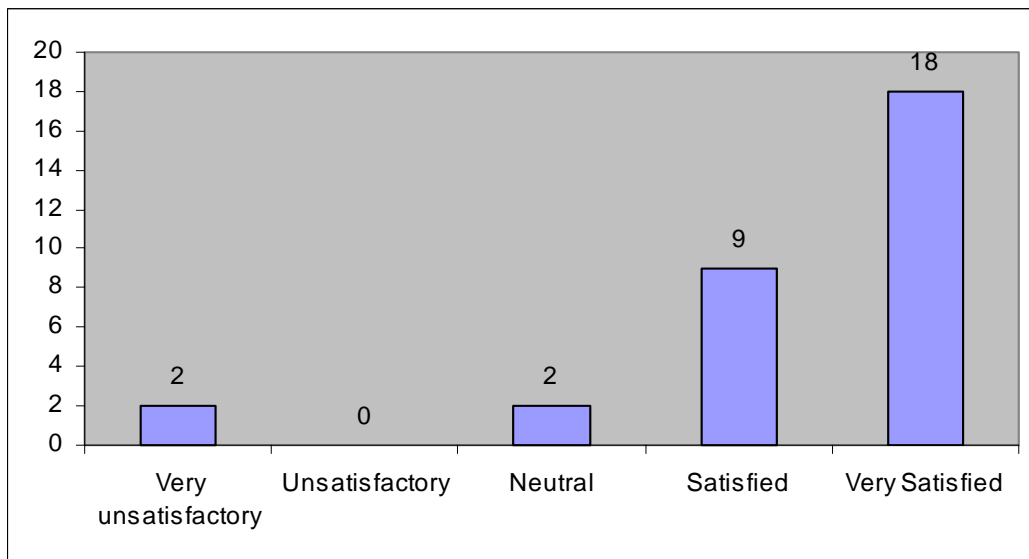
Mt. Cashel
Nova Scotia

Grandview
St. John's/St. Joseph's

Level of Satisfaction Regarding *Process*



Level of Satisfaction Regarding *Outcome*



5.2.2 Mutual Support

- “Very important. Played an important role for many survivors with practical support, validation, and friendship. (Grandview survivor)
- “The group saved our lives.” (Grandview survivor)
- “Concerned that the group did not have a chance to offer real support because of the limitations on what they could talk to each other about. The women were a courageous bunch in the end.” (Grandview survivor)
- “This was the best support. Most times we didn’t talk about the abuse just got together.” (Mt. Cashel survivor)
- “...helped people get it out...we had a common goal... strong voice that really helped each other... made demands and asked questions...”. (Mt. Cashel survivor)

Finding: Survivors expressed general satisfaction with mutual aid, through support groups, where they existed. They were not of interest to all survivors, but clearly offered support, information, and a sense of belonging that was important to many. These groups have generally discontinued shortly after the resolution of compensation issues.

Mutual support groups existed in Grandview, St. John’s / St. Joseph’s, Mt . Cashel, Duplessis, and Jericho Hill. Attempts to initiate such a group in the Nova Scotia case were said by survivors and other informants to have been discouraged by government officials.

For survivors choosing not to participate in support groups (about 15% of sample), the reasons offered included: I’m a private person; worried about my credibility if associated with this group; too negative; didn’t have time.

Informants involved in mutual support expressed generally high levels of satisfaction about the support they received from other survivors. Clearly, this organized support was a factor in the settlement processes and outcomes in Grandview and St. John’s/St. Joseph’s. The political power of a cohesive group to negotiate in strength with government (and the church in the case of St. John’s / St. Joseph’s) is evident in these instances. In Grandview, for instance, the survivors were highly organized, and a sub-group acted on behalf of the women to provide clear, ongoing instruction to their counsel.

The group Silent No Longer, in British Columbia, is pursuing a class action law suit against the provincial government. This group is made up of survivors of Jericho Hill and their families and the suit asks for damages for physical and other forms of abuse (not covered by the compensation program), and for family members as well.

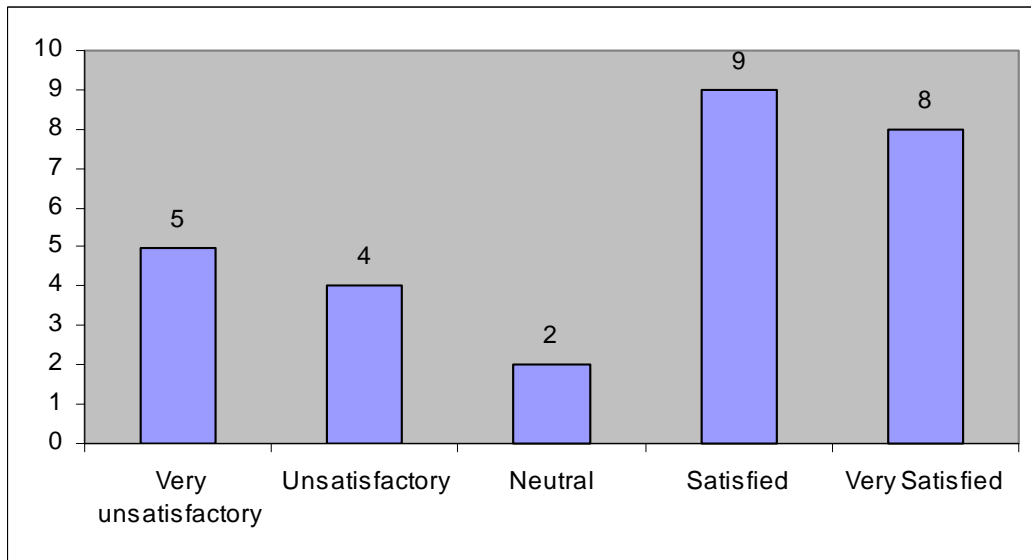
Survivors noted the need for financial support to initiate and maintain these groups. In the case of St. John's / St. Joseph's, it was accepted that the Helpline group required support to be able to engage effectively with the other parties to the reconciliation agreement. In Mt. Cashel, funding for a 1-800 line was in place for about two years and was seen to have made a difference.

MUTUAL SUPPORT

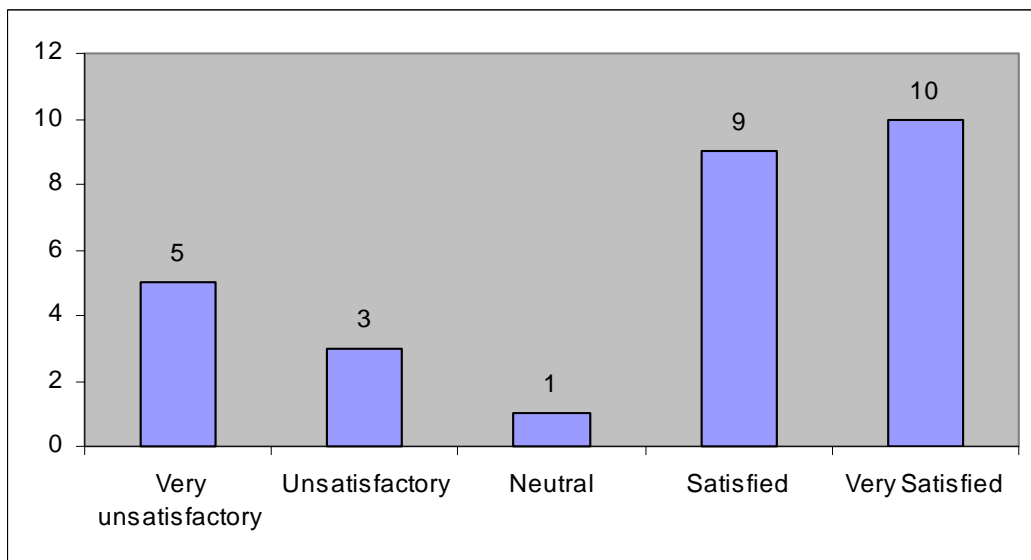
Mt. Cashel
Nova Scotia

Grandview
St. John's/St. Joseph's

Level of Satisfaction Regarding *Process*



Level of Satisfaction Regarding *Outcome*



5.2.3 Families

Finding: Families of survivors of institutional child abuse are secondary victims. Their needs are not generally considered in addressing the abuse that has occurred.

Parents, partners and children of survivors are described by some informants as secondary victims. Parents who either consented to their children entering institutions, sent them off willingly, or didn't respond to suggestions their child was being abused were described by informants as suffering enormous guilt. In the case of Jericho Hill School, parents were kept from information, by authorities, which clearly could have helped them better care for and protect their children. Many partners of survivors learned of abuse only at the point of public disclosure. While for some this was an opportunity to increase the intimacy of their relationship, for others it was divisive. Survivors with children struggled with the appropriate way to handle the issue. One man was afraid his children would be ridiculed if it was known he was abused at Mt. Cashel. Most support programs do not encompass families.

Survivors expressed much concern for the impact on their families of the process of addressing their abuse. Families were described as being victimized by the processes as well as the survivors. The need to protect privacy of families in the police investigation was noted by some. Supports and counseling for family members as well as the survivor was frequently recommended. At least two survivors stated that they had lost their families due to the stress brought on by addressing the abuse.

5.3 Prevention / Early Intervention

Finding: Knowledge about ways and means of preventing institutional child abuse has been in existence for some time.

Finding: Survivors have clear ideas on the prevention of institutional child abuse, which are largely in keeping with the current literature.

Finding: Despite the recurring instances of institutional child abuse which have emerged over the past decade, there is an absence of "emergency response" approaches being developed to address these situations.

For survivors, they described prevention as a driving reason for them to be involved in coming forward to disclose their abuse. Also, many survivors noted that the interview with the researchers for this study was important to them as it might help prevent future abuse. Survivors and other informants described very similar lists of prevention measures which should be considered in preventing institutional child abuse. These are in keeping with the literature on the subject, and include:

- keep kids in the community if at all possible;

- screen all staff;
- independent monitoring by a non-governmental body (e.g. through an ombudsman's office) with unannounced visits;
- better trained staff;
- higher staff-resident ratio;
- more female staff;
- residents should be informed of their rights;
- training of children about abuse;
- use cameras to monitor facilities;
- support for staff, in the way of training and supervision, so they don't burn out;

Several survivors took the view that institutions are inherently dangerous, and that children should not be placed in them, or only as a last resort. There was a sense, and that sense is supported by the literature, that placing children in institutions generally puts them at high risk of being abused.

The lack of coordinated, planned intervention in institutions when abuse is identified appears to continue, despite the cases which have been uncovered. There were several comparisons made to Swiss Air Flight 111 which had crashed in Nova Scotia while this research was being conducted. In that case, our government expended enormous resources to ensure that family members, almost none of which were Canadians, could have their needs immediately addressed, in grieving their lost loved ones. It is evident that in that instance, the term disaster applies and as a society we have agreed that usual concerns about resources are set aside. What is starkly clear in the case of institutional abuse is that no such status applies. Few disaster plans exist, although there is a likelihood that there will continue to be more situations to emerge.

5.4 Suggestions for Improvement

Survivors and other informants provided extensive lists of suggestions regarding the various aspects of addressing institutional child abuse. Major suggestions are noted in this section.

5.4.1 Police Investigation

Several points were made by survivors and other informants about ways and means to improve the way that police investigations proceed in cases of institutional child abuse. These include:

Offering Choices- survivors want to choose whether to be involved in a police investigation. They need to be informed of their right to not be interviewed, and should not be pressured to be involved. There needs to be an opportunity for survivors to have choice in who interviews them as well (e.g. gender of officer).

Eliminating Prompted Disclosure- when contacting survivors in these cases, every effort needs to be made to respect the privacy of the individuals involved. No intrusive measures should be used (e.g. visiting a survivor unannounced at work or at home). Using the general media to invite participation is the preferred approach.

More Respect Shown to Survivors - there is a need for sensitivity on the part of officers who take information from survivors of institutional child abuse. As a first point of contact in terms of disclosure, their response can have considerable impact on the survivor. Too often, survivors describe an antagonistic, disrespectful approach.

Providing Support People Immediately- survivors need immediate supports available when they are involved in recounting the abuse of their past. It is seen by many informants as unacceptable practice, and dangerous, to interview a survivor for many hours, even days, about abuse they suffered, without providing counseling supports by external, trained professionals. Concerns about evidence tampering should be secondary to the well-being of survivors. Also, there are demonstrated ways and means to mitigate against this concern, through formal agreements between police / crown and the support services.

Limit the Number of Interviews / Investigations- the police need to develop policies and procedures to minimize the number of interviews and statements a survivor is required to give. The use of videotape was suggested by several survivors to minimize the revictimization associated with each interview.

More Specific Training of Officers- clearly all officers investigating instances of institutional child abuse should have received specialized training. This needs to extend beyond that training offered in cases of sexual abuse generally to encompass the particular issues and dynamics in place in situations of institutional child abuse.

5.4.2 Public Inquiry

There were a variety of views on the use of public inquiries. These included:

Ensure Support for Survivors- there needs to be counselors / support persons on hand from the outset. Safety for survivors needs to be a top priority.

Publicity- some felt that there should be less publicity (e.g. some Mt. Cashel survivors), while others believed more publicity would have been better (e.g. some Nova Scotia survivors).

Choice - survivors believe they ought to have the right to refuse to participate. Many felt they had no choice.

Greater Sensitivity to Survivor Needs While Testifying - there needs to be a great degree of sensitivity on the part of inquiry staff to survivor needs. This could involve ensuring private ways for some to give testimony, as well as allowing them to put their statements in personal terms (i.e. written form).

5.4.3 Criminal Trials

Suggestions on how to improve the criminal trial process included:

Survivor Support - there should be a support person in place, separate from the police / crown, throughout the process. There should be less barriers to survivors supporting each other during the trials.

More Contact and Information - survivors need frequent updates on the progress of cases. The criminal justice system is not well understood to most of them.

Acknowledge Survivor Rights / Interests- the sense of most survivors is that they have less rights, and their well-being is less of a concern, than that of the perpetrator. Survivors need to know that the system has some regard for their well-being.

Amnesty for Survivors - as it relates to abusive behaviour between residents of institutions when they were children.

Avoid Delays - as many survivors put their lives on hold while the criminal process unfolds, there is a need to ensure timely handling of the cases.

Devices to Minimize Trauma - the survivors indicated a need for screens, closed-circuit television and videotaped testimony.

5.4.4 Civil Suits

The suggested improvements to the civil system included:

Required Option - with the advancement of ADR and related approaches, some informants felt it important that the option of civil action be maintained in case the other methods fail. There was some thought, in the Duplessis case, that government assistance should be available to allow the survivors to pursue their class action suit.

More Direct Negotiation- one of the concerns about the existing system is that it tends to keep the parties from direct dialogue, and emphasizes the role of the lawyer. Survivors need to have significant input into the decisions involved in the civil process.

Eliminate Psychological Evaluations - some survivors found this to be yet another layer of revictimization, and felt that they should not be placed in the position of yet again justifying their situation. There was a considerable doubt raised by many informants about the reliability of assessment in these situations. As one survivor said, “ How do you assess a lost childhood?”

Establish Time Limits- the current structure favours the institutions and government, in that survivors have neither the resources to fight for compensation nor the strength and will in many instances.

5.4.5 Alternate Dispute Resolution / Non-Court Based Settlement Programs

The suggestions offered with respect to ADR / Non-Court Settlement Programs include:

Independent Administration / Accountability- the largest concern about the existing programs is that because they are controlled by government, they are not geared to meet survivor needs. Some form of external delivery, or accountability (e.g. through external evaluation), is suggested.

Apology- this is often not included in the agreements. For survivors, it is a critical issue.

Support for Family Members - in some instances this support to families is described in terms of counseling. In the case of Jericho Hill School, it is seen that the families may well be eligible for compensation themselves.

Longer Periods of Support- counseling and other benefits in the various programs generally have a finite period, whereas it may take several years for some survivors to be able to utilize some program components (.e.g. education, counseling).

Need for Outreach Workers / Support People - where these workers have been in place, they have been very well received by survivors. There is some concern about dependency over time if a program continues indefinitely.

5.5 Other Issues

During the course of the review thus far, there are issues which have arisen which warrant separate discussion.

5.5.1 Persons with Disability

Finding: Persons with Disability are at higher risk of abuse in institutions. The resolution of their issues is generally more complex due to the disability and related issues (e.g. communication).

Persons with disabilities often have major communication challenges. This means they are more vulnerable to abuse in the first instance, may find it more difficult to disclose that abuse, are less likely to have criminal charges laid in respect of their abuse, less likely to have their offenders be convicted of a crime, and less likely to advocate successfully for compensation.

The abuses we learned about at Michener Centre, Sir James Whitney, and Jericho Hill School, all of which are well documented over a period of many years, and the responses to these abuses, suggest strongly that the principle reason these issues have not been better addressed to date is that they involve persons with disabilities.

The persons interviewed suggest that there is a need for government to take a proactive role in these situations to investigate institutions for persons with disabilities to attempt to determine the extent of past, and present, abuses. There is some rationale for greater urgency in these type of institutions for at least two reasons. Firstly, there is a greater ongoing likelihood for children with disabilities to be placed in institutions, than other children. Secondly, there is a greater likelihood of abuse of children who are disabled in general.

In the example of the deaf community in Jericho Hill, a most unfortunate issue is the degree of abusive behavior that occurred between residents. The impact on the deaf community in British Columbia, where abuse occurred in at least two generations, is noted by several informants to be pervasive.

The situation with respect to the Duplessis Orphans, some of whom have been labeled with developmental disabilities, is instructive in terms of what survivors need and expect in response to their abuse. They indicate an interest in compensation, to ensure their well-

being. But their larger concern is for justice to be served, for an apology to be rendered, for acknowledgment of their abuse.

5.5.2 Community

There was a notable lack of specific suggestions gathered from informants about the role of community in dealing with these instances of abuse. Informants generally agree that the community has an important role to play in effectively addressing institutional abuse. However, in many of the institutions studied, the concept of community is complex. The children in institutions came there from a community, they made up a community in the institution, the institution is located physically in a community, and upon leaving the institution the children may reside in yet another community. Many survivors find themselves alienated and disconnected.

Suggestions to address this include:

Public Education - there is a strong need for communities to be aware of the abuse that has occurred in institutions. Informants believe that public education, especially directed at young people, will assist communities in making shifts in their understanding and acceptance of the issue of institutional child abuse.

Symbolic Acknowledgment- there were suggestions of local, provincial and perhaps national ceremonies and observances to honour the persons who suffered so in institutions. The principle behind these suggestions is to have some public means by which survivors and others can celebrate their struggle and move beyond shame.

Communities which House Institutions Assume Responsibility for the Children- one informant suggested that part of the “contract” in accepting an institution into a community, with its employment base, is that the community agrees to protect the vulnerable children who reside there.

Policies and Approaches that Emphasize Community Responses- children are often removed physically from the support and love of family and community when placed in institutions. Strategies like “family-based decision making” and early intervention in troubled families are put forward as larger moves towards communities taking active responsibility to ensure the safety and well-being of children.

5.5.3 Aboriginal Survivors

Finding: Aboriginal children are subject to greater levels of abuse in the institutions studied.

About 10% (n=9) of our survivor respondents are aboriginal people. This study does not directly address the residential school as an instance of institutional abuse as a parallel review is examining that issue. However, we do note some issues from those interviewed.

In Grandview, aboriginal women had the opportunity to present their situation to an aboriginal adjudicator, which was very important. In St. John's / St. Joseph's, the method used to document the information about the survivors and their history was derived by the consultant from aboriginal approaches to which that person had been exposed. Perhaps most poignantly, we heard from some interviewees, as well as survivors, that aboriginal youth in the institutions reviewed were among the worst treated.

There were 6 participants who described themselves as being from a visible minority. There were no remarkable comments about their treatment in the institutions. However, the fact that racism is a factor in some of the compensation programs (i.e. Grandview, Nova Scotia) suggests it is an aggravating factor in the abuse suffered in institutions.

5.5.4 Gender Issues

There was some evidence to suggest that female survivors may approach resolution to these issues differently than male survivors. The particular reference was made with respect to Grandview and the inclusive, empowering strategies developed in that instance, versus the more combative approaches in other situations. It is difficult to make comparisons in terms of such few examples, but it is perhaps not surprising that men and women may bring different perspectives to these issues and express somewhat different needs. Literature on child sexual abuse generally supports the view that there are many similarities but some differences in how men and women address abuse issues.

5.5.5 Accountability of Those Who Knew or Should Have Known

Much concern was raised by some informants about the issue of holding public and church officials accountable for knowing of abuse and not responding in the best interest of the children involved. There are many indications in the cases studied that there were public officials who knew about, and in some instances appear to have actively covered up, instances of institutional child abuse. Informants felt there should be consideration of legislation that supports criminal charges and other sanctions to be applied in such instances, as well as encouragement and support for "whistle blowers".

5.5.6 Union Arbitration

In the case of Jericho Hill School, survivors were subpoenaed to appear in arbitration cases against staff that were believed to have abused them. They were said to be not well supported and forced to participate in this process. Informants familiar with these events felt there should be a right to exclusion of survivors from such processes, as they represent yet another level of inquiry and both investigation and formal testimony in an adversarial mode.

5.5.7 Foster Care

Foster care was selected as a secondary case study for the review. A companion literature review, to augment this section and the previous literature review, is added. Interviews have been held with Youth advocacy organizations, researchers and youth in care from four provinces.

Finding: Foster care in Canada is a system with its own historic difficulties. With the closure of many institutions, as well as increased reporting of abuse in general, it is a system where demand is stretching resources to the maximum.

Finding: Children who are taken into care are much more likely to have experienced abuse than other children.

Finding: Although there is a general societal belief that children in the care of the state are safe and protected, children in foster care are abused significantly more than children who live with their families.

Finding: Policies and practices to prevent abuse of children in foster care are quite variable across the country. There are significant concerns about foster care training and monitoring.

Finding: While child advocates and other accountability measures have been introduced in some provinces, the problems associated with foster care are seen by the youth who reside in the system, as well as those who study it, as ever-present.

6.0 DISCUSSION

This section analyses the information gathered in terms of three major questions. These are:

- What are the needs of survivors of institutional child abuse? Are they being met?
- What are the best practices in place to meet these needs?

- What policy implications are there for government and society in general in its handling of institutional abuse?

6.1 Needs of Survivors of Institutional Abuse

In the course of the research, we identified a number of needs of survivors of institutional abuse. This is not to suggest that all survivors experience the same needs. They do not. However, there are some common themes which emerge, involving institutional child abuse which becomes publicly known. While not intended to be an exhaustive list, it includes:

Acknowledgment of their abuse:

It is very important to survivors that they are given a clear message that they are believed about their abuse, that their truth is accepted.

Survivors vs. Victims

The choice of the term survivor throughout this document as opposed to victim, which the legal system emphasizes in its addressing of these matters, is quite deliberate. The legal system, in our view, encourages people who have been abused as children in institutions to see themselves as victims as adults, in order for their needs and interests to be validated. The researchers believe that a person abused as a child is a survivor and this strength needs to be encouraged and validated by those encountering them.

Access to immediate and ongoing support:

Counseling, and resources to assist in establishing mutual aid, need to be made available as soon as is practical, and continue throughout any processes (i.e. criminal, civil) and beyond.

Informed choices/options:

Survivors need to have sufficient information to make informed choices about whether to involve themselves, and to what degree, in approaches designed to address their abuse.

Engagement:

It is important to offer survivors an individualized opportunity to be involved in the design of programs and processes designed to assist them.

Processes to be respectful of them and to not revictimize them:

The traditional legal approaches to addressing abuse in institutions have been generally considered to be revictimizing. They do not afford any status to survivors. Survivors of institutional child abuse require greater consideration in the administration of justice. Their strengths need to be acknowledged and encouraged.

Accountability:

Survivors need to receive apologies from those responsible for wrongdoing, offenders to be held accountable, and compensation for past wrongdoing and to assist them in shaping their future.

Early Intervention / Prevention of future abuse:

One of the central motivations for survivors coming forward is to protect further generations of vulnerable children from abuse. Early intervention and prevention strategies need to be developed to better address these issues as they arise. If we accept that this is a fair representation of survivor needs, then these can be used as a lens through which to analyse the means to address institutional child abuse in Canada.

Conclusion: The quality of response to the needs of survivors of institutional abuse in Canada over the past ten years is quite variable. Often these needs are not given much consideration.

6.2 Role of Survivors in the Legal Process

What is repeatedly clear in this review is that while survivors of abuse are essential in terms of uncovering and confronting institutional child abuse, their accompanying needs, as outlined above, are generally not considered to be a priority. In public inquiries, they can be compelled to testify, while the perpetrators are spared this experience. In criminal trials, their status is that of witness, no different than if they had happened upon an event rather than been subjected to abuse. Of course, without their testimony, the perpetrators cannot be held accountable, leaving society unprotected and justice unserved.

Increasingly, the role of survivors in the civil process is to be a recipient of a program designed on their behalf, usually without their input. In civil proceedings, the needs of survivors are narrowly defined by others as being monetary in nature, despite the fact that almost every piece of research done with survivors, including this work, suggests that this is not the case.

Conclusion: The apparently prescribed or intended role of survivors in the justice system is to continue to be a victim. They have quite limited rights. Their needs are often not considered. They have almost no control of most processes or outcomes. They have no advocate in many of the processes. The picture which emerges is that survivors are routinely victimized in the legal system just as surely as in institutions, with frightening parallels.

6.3 Best Practices / Alternative Approaches

Despite the grim conclusions in the previous section, there are positive practice examples in virtually every aspect of addressing institutional child abuse. This section will focus on

demonstrated examples of using the existing system in the most survivor-friendly manner. Also, it will consider ideas which have been raised in the course of the review, but are as yet not in practice.

Public Inquiries

The Inquiry held in the Nova Scotia case, the Stratton Inquiry, is held out by the survivors involved as a good example of a survivor-friendly proceeding. There was privacy, a supportive investigative team, an understanding judge, and a timely process.

The findings in this report suggest that personal support to survivors is important to provide from the earliest point in time and throughout the process. Other key factors to consider are timeliness, the degree of personal privacy of witnesses, and the high expectations of survivors that accompany such proceedings.

The researchers came across several informants who were not involved in public inquiries but who seemed to favour their use. The interest in public accountability is high among survivors, and a public inquiry seems a natural process to use in its pursuit. We would recommend caution in pursuing such an inquiry, and refer to the work of Tucker (1994) and the Turquetil Hall Investigation Report (1994) for a balanced view of the pros and cons of the public inquiry.

We believe there is merit to the discussion posed by Peterson, in her report on Chesterfield Inlet School. She discouraged the N.W.T. government from holding a public inquiry. Instead, she recommended strategies that encompassed joint involvement of church, government, and community in addressing the issues from a healing perspective.

Police Investigations

The investigation in Nova Scotia, using Operation Hope, as well as the second phase of the Grandview investigation, and that employed in St. John's / St. Joseph's, have been presented as positive examples of conducting effective investigations that are supportive of the needs of survivors. What they appear to hold in common are: a respectful approach that takes into account the need for informed choice on the part of survivors; experienced and specifically trained officers; a sensitive and accepting manner, and; a commitment to ensuring survivor needs are considered.

The pressure on police to uncover the "truth" about allegations of institutional child abuse can be intense. This is amplified if there are suggestions that poor prior performance of the police in investigating the situation was a factor in its concealment. Further, police can be faced with competing interests in investigating cases where the state is responsible for institutions where allegations of abuse arise. This was seen by some informants to be the situation in several of the cases studied (e.g. Mt. Cashel, Kingsclear, Jericho Hill School, Duplessis), and led to delays and inaction.

Police response often represents the first contact with the justice system. The impact of this experience on survivors is often intense. The need for sensitivity, safety, support and respect are paramount. In cases of institutional child abuse, there is a need for police to consider amnesty for children who abused other children in the institution in order to encourage free telling of the abuse story.

Criminal Trials

The Victim / Witness programs in St. John's / St. Joseph's and in Mt. Cashel have been positively regarded as minimizing the negative impacts of a criminal trial on survivors. Provisions in the Newfoundland Jury Act which help offset survivor costs of appearing in court and should be reviewed elsewhere for their ability to enhance participation of survivors.

There were no examples in the cases studied where the criminal justice system was altered to take in to account the needs of survivors. Victim impact statements and support programs are efforts at modifying the status quo, and do not aspire to structural change. Reforming the criminal justice system to accommodate survivor needs is a challenge. The system itself was designed to protect property interests.

Conclusion: Virtually every informant we interviewed agreed the criminal justice system as it is presently constituted is a particularly poor system for addressing issues of institutional abuse.

One can look to recent examples in this country to see new and controversial strategies being employed (e.g. the Bishop O'Connor case in British Columbia). The rise of restorative justice approaches broadens the base of means to address situations such as institutional abuse. Less disruptive of the existing system could be the introduction of legal representation for survivors, as was suggested by several informants.

Rix Rogers has outlined some thirty recommendations in his seminal work as the Special Advisor to the Minister of Health and Welfare on child abuse. Many of those suggestions could be implemented in cases involving survivors of institutional abuse. Notable among them are a variety of ways to make the process less painful for survivors, as well as focussing on the training and ethics of the lawyers involved.

Civil Suits

In terms of financial outcomes, where survivors have persevered in civil suits, there is an indication their awards can be substantially higher than for those who enter into settlement programs or ADR. The lawyers representing the men of Mt. Cashel covered some client costs of pursuing their action over the nine year period of the negotiations. There was community funding support for the successful suit in the Michener Centre case. In both cases, the awards were in excess of the compensation rates set out in other ADR processes or settlement programs.

Cases which have emphasized issues beyond pain and suffering (e.g. lost earning potential, loss of spirituality) are seen as being more in line with how survivors themselves describe their injury. Having an opportunity to influence the process of negotiations, and to be part of the strategy process, is clearly of interest to some survivors. We found no example in the cases we examined where survivors were participants in the actual negotiation process itself, and in those instances where the case went to court, their role was primarily that of a witness.

For civil suits to be empowering, and to minimize their harm to survivors, several factors would need to be considered. There needs to be meaningful input into negotiations, counseling supports available, ongoing updates on the status of the case, and time limits.

Union arbitration cases should allow for exclusion of survivors of institutional abuse from appearing as witnesses.

Conclusion: Civil action is not favourably described in the literature or by informants. However, as advocates rightly note, civil suits remain an important means of accountability.

Alternative Dispute Resolution

Alternate Dispute Resolution as a process matches well with the needs of survivors. It is by its nature empowering, geared to resolution, involves engagement, emphasizes flexibility and choice, and provides for direct accountability.

The Grandview Survivors Group Healing Package stands out as the most advanced attempt to involve survivors in identifying their own needs and in directing their end of the negotiations. It is respectful, attempts to address the individual and collective needs of the survivors, and aspires to make the world a better place for survivors to live. There are clearly two parties involved, the women and the government of Ontario, and the agreement is jointly derived and owned. In terms of process, it is clearly a model that any emerging case of institutional abuse should consider in addressing compensation.

However, Grandview is criticised by several informants on three main counts, all related to outcome. The women involved were seen to have received relatively low compensation awards. The mechanism to deliver the Package's terms was seen as overly bureaucratic and tied the women to the program in a manner that was feared to have created dependency. Also, although it was a large and horrifying case of institutional abuse, it is not well publicized or well known in Ontario, and even less so in the rest of Canada. The lack of public accountability is seen as a shortcoming of the approach.

On this last score, the efforts of St. John's / St. Joseph's is instructive. A recorder was contracted at government expense, to recreate an historical account of the institution and

the settlement process. This was subsequently published and distributed to the survivors and is a treasured document. This component is recommended as a helpful healing document for survivors. Notably, the recorder's report in St. John's / St. Joseph's is reportedly now unavailable from government, though it was intended to be publicly distributed as an enduring record of the abuse that occurred as well.

In order to be effective, ADR approaches require state commitment to resources to represent the survivors and to organize them. Governments need to examine the premise that such investments are worthwhile, will enhance the durability of agreements, and will still prove cost-effective as opposed to civil actions.

Conclusion: Of all civil remedies, genuine ADR holds the greatest likelihood of meeting survivor needs in terms of compensation. It is more expensive and cumbersome than non-court based settlement programs, but because it meets more survivor needs, will probably be more durable and lessen the likelihood of parallel civil suits.

Non-Court Based Settlement Programs

An emerging phenomenon has been the introduction of non-court based settlement programs. They theoretically allow the governments who design them to compensate survivors for whom the prospect of civil action is poor, given their poor economic state, weak criminal case, or personal difficulties too severe to weather the legal processes involved. The bar of proof is lower than in formal legal proceedings, thereby widening the gate.

In practice, there is reason to believe that these processes are designed to limit government liability. In fact, this was acknowledged to us by informants who had designed these processes. The compensation level systems or matrices, discussed separately, are illustrative of this slant.

The process involved in non-court settlement programs is one where government, with or without consultation with survivors or their advocates, unilaterally introduces a program which it controls, under rules which it creates, by officials which it selects. These have generally been limited to financial compensation, with counseling awards as well. This clearly ignores most of the needs of survivors identified in this study.

Conclusion: Most survivors of institutional child abuse need and want more than monetary awards and counseling in the compensation process. Most settlement programs deliberately do not address these needs (i.e. for apology, for public accountability, for prevention of future abuse).

One means to mitigate against the power imbalance inherent in this approach is demonstrated in Sir James Whitney. In that case, the settlement program makes a

determination of compensation, and the survivor retains the option to sue until that point. This avoids the “railroading effect” that survivors described in the Nova Scotia case, where they said they had to sign away their rights to sue to receive even interim compensation and counseling.

Another positive element of the Sir James Whitney case is the availability of funds for legal representation and advice. This ensures some degree of independent knowledgeable advice is offered to survivors prior to acceptance of the settlement offer.

Financial Awards

The discrepancy between civil suit outcomes and negotiated settlements through ADR or non-court based settlement programs appears to be significant. While figures are generally not available, it is known that the woman who sued the Alberta government for wrongful sterilization received more than \$700,000.00, and that the men of Mt. Cashel received awards of up to \$400,000.00. Most ADR and non-court based settlement programs place a ceiling of awards at either \$60,000.00 or \$120,000.00. Average awards in the Kingsclear case has been reported at \$47,000.00.

Further indications that a gap exists between civil awards and other strategies comes from the actions of both survivors and governments in the recent past. The government of Alberta, after unsuccessfully putting forth legislation to limit compensation which would effect Michener Centre survivors, has recently introduced a settlement program. Some survivors of Jericho Hill School have rejected a compensation program as too narrow and are seeking to launch a class action suit against government.

It seems clear that if survivors can overcome the financial and personal barriers they face, usually existing at least in part directly as a result of their abuse, they are entitled to significantly higher awards than currently are offered in other approaches.

Conclusion: Governments need to consider the risks associated with putting forth alternatives which are perceived by survivors and others as unfair. As the situations in both Michener Centre and Jericho Hill School demonstrate, failure to meet expectations could well result in expensive litigation which would leave government vulnerable to very high costs of civil suits, large awards for damages, and poor publicity.

Counselling

Conclusion: It is clearly essential that counselling services be available from the earliest contact with survivors of institutional support, and throughout the process, and beyond.

The disruption of disclosure of one’s abusive past on their functioning and well-being should not be underestimated. Our emerging knowledge of the therapeutic needs of

survivors of institutional child abuse suggests that in some instances, long-term counselling is required to assist survivors to stabilize their lives and to function effectively.

The counselling programs offered in Nova Scotia and in Grandview are instructive. Allowing for flexibility and choice on the part of survivors is important to encourage participation. However, providing quality controls (e.g. monitoring, evaluation) is also important to allow survivors to make informed choices.

While generally counseling is seen as a formal process involving a regulated service provider, alternative approaches, which may or may not be regulated, have been utilized with satisfaction by some survivors.

Mutual Support

As with counseling, mutual support groups are important supports for survivors throughout the process. They appear to have a natural life span, and conclude with the conclusion of legal processes.

In the cases of Grandview and St. John's / St. Joseph's, and to a lesser extent in Mt. Cashel, governments have supported these groups. The benefits to survivors are seen to be empowerment, support, affirmation, and a sense of belonging. For government, the support group offers a contact and negotiating point with survivors that avoids the dilemma faced when hundreds of survivors, unconnected to each other, come forward to government seeking justice (i.e. Nova Scotia).

Conclusion: As mutual support is seen by survivors as essential to their well-being, governments should ensure that resources, in the form of finances and expertise, be made available to survivors to assist them in such efforts.

Prevention/Early Intervention

Conclusion: Government needs to review its approach to dealing with vulnerable children generally. The paternalistic and intrusive methods of the last several generations, far from having had the desired effect, have contributed to the rise of the institutions which have so badly failed children. More resources for community-based responses which support families and use out-of-home care as a last resort, are essential.

The need for institutions in our society is in large part related to our approaches to dealing with the issues of poverty and child welfare. Until quite recently, the vast majority of money dedicated to child welfare in this country was directed to crisis intervention and intrusive protection methods (e.g. removal of children from their families). Most children living in out-of-home care in the country, lived in poor families with few supports. Increasingly, there is an awareness that early intervention and prevention, in a supportive manner, with families having difficulties, is both cost-effective and ensures natural support

systems are maintained. There is a growing interest in alternative visions for the governance and delivery of child welfare and youth corrections services. Innovative work is being done by groups such as the Awasis Agency in Northern Manitoba. This agency underwent a transformational process of governance which is designed to maximize community input and involvement and minimize the traditional control-oriented approaches of governments and service providers. It is based on a fundamental principle; namely “ there has to be a better way.”

Conclusion: Every province and territory in Canada should have a “ disaster plan” or emergency response plan in place for cases of institutional child abuse. Special monitoring procedures should be instituted, especially in institutions which house children with disabilities.

As mentioned elsewhere in this report, it is difficult to imagine that emergency response procedures, similar to those for plane crashes or other traumatic events, are not in place in every province and territory in relation to institutional child abuse. The risk of abuse in institutions is well documented, and certainly the events of the last decade should have relieved any governments of the belief that their institutions for serving children and youth were by nature benign.

Immediate responses to abuse need to consider such issues as : immediate safe housing for children; costs for caregivers; a SWAT team of trained investigators and intervener; follow-up with parents; addressing child-child abuse in an accepting manner; debriefing for staff. Where the abuse being revealed is from decades prior, there still needs to be a “flooding” of supports for the survivors involved.

Supports and protections should be put in place for ‘whistle blowers’ to encourage staff of institutions, and others, to identify abuse at the earliest possible point. On the other hand, there needs to be better means to hold public officials accountable for the failure to protect children in institutions. It is offensive to most informants in this review that despite reasonably clear information that specific public officials knew or should have known that children were being abused in institutions, most of these officials were never held accountable for their action or inaction.

Given the checkered history of governments in protecting children under its care, it is not surprising that there is almost unanimous consensus among informants for external monitoring of government institutions that serve children. There are systems in place in at least two provinces (British Columbia, Ontario). Most people believe this could be a function of the Ombudsman’s office, which exists in every province except Newfoundland.

Conclusion; Institutions that serve children need to be viewed as risky last resorts. If we are willing to place vulnerable children in institutions, given our current knowledge of the potential dangerousness of these structures, then resources need to be expended to ensure they are safe and productive environments.

6.4 Government's Role

Governments, and in our country that translates generally to provincial governments, have a direct responsibility to ensure the welfare of children. Therefore, when that duty is not met, as in the cases of institutional abuse we have reviewed, governments are sought to take their share of responsibility. In all of the cases studied, the provincial government involved was the party, or one of the parties, against which survivors of institutional abuse sought compensation.

This places governments in a precarious position of competing interests. The mission to protect children is offset by the protection of staff, institutions the officials responsible, and ultimately the government itself.

The history of dealing with reports of child abuse in institutions is replete with examples where “whistle blowers” have been unsupported or worse punished for their attempts to protect children against wrongdoing. There are no incentives for uncovering instances of abuse, although research has told us for decades that such abuse is at high levels of risk for occurring.

Testament to the pervasive power of protecting self-interest above all else is the delay between knowledge of abuse in institutions and its address, often for decades. The cases involved in this review are almost without fail exacerbated by government officials who clearly knew or should have known about the abuse and did nothing.

Once identified, institutional abuse cases rely heavily upon governments at the provincial / territorial level as to how they will be handled. Decisions about public inquiries, resource allocation in investigating and prosecuting criminal activity, civil programs, and support structures all rest with the provincial government of the day.

Governments faced with instances of institutional abuse experience severe challenges. The problems did not occur on their watch, generally speaking, but they are being pressed to take responsibility. There may be other parties with responsibility (e.g. churches) who are resisting cooperation. The numbers of survivors in need may represent a resource and funding issue at a time when governments are attempting to contain costs generally. The best approaches are not yet articulated. Media scrutiny is high. There may be resentment that this issue will dominate the public agenda, waylaying other important initiatives. Clearly, it is not an envious position.

How have governments fared in this precarious position? From our review, one can generally say that the perception is, poorly. Rather than balancing the interests of survivors and the state, governments are seen to generally favour the latter at the expense of the former. There are several indications of this, including:

- the lack of “emergency response” strategies in place in any province to ensure a sensitive response to emerging cases of institutional abuse, although they continue to arise;
- the reliance on the existing foster care system as an alternative to institutional care, with no significant improvements or enhancements, when there is ample evidence that this system, if not in crisis, has major challenges in terms of resources, and a poor historic record of abuse occurring to children as well;
- efforts of some governments to limit liability through a variety of means (e.g. legislation capping settlement amounts, instituting settlement programs);
- refusal in one instance to provide counseling support to complainants until they signed away their right to pursue civil action;
- apparently active discouragement in one instance of the creation of mutual support groups to minimize the power of survivors in negotiations with government;
- the refusal to acknowledge the existence of wrongdoing despite clear evidence;
- the failure to hold accountable those officials who clearly knew, or should have known, about abuse occurring in institutions;
- the failure to protect “whistle blowers”;
- the lack of satisfaction with government created non-court based settlement programs, as evidenced in this study, and leading to such initiatives as class action suits;
- the heavy criticism of the level systems or matrices which have been used to determine levels of compensation, for limiting government liability as their first priority.
- perhaps most poignantly, the lack of faith in government to protect children in future. Almost all informants we spoke to indicated to us that despite a decade of revelations concerning abuse of vulnerable children, children in similar circumstances today face the same risks of harm.

Certainly as our section on Best Practices points out, governments can do better in how they address these issues. The larger question is whether governments need to acknowledge the likely inability to be effective and fair in a direct role in situations where they are both offending party and control resources for resolving the matters. Strategies to

reduce this conflict, such as independent tribunals and truly alternative dispute resolution approaches, are required.

6.5 The Role of Society

Conclusions: *Institutions foster abuse because the children in them are “disposable” to society. Unfortunately, the response to the needs of adults abused as children in institutions suggests in many instances a similar disposableness.*

The abuse in institutions which has come into the public consciousness has had some impacts on Canadian society. In the aboriginal context, there are signs that the revelations of abuse in residential schools are assisting aboriginal people in better understanding their struggles as nations in the past century. The diminishing role and power of the church in some parts of the country is significantly linked to mistreatment of children in church run institutions. Canadians have been shed of the false belief that placing vulnerable children out of their homes is a positive approach which is sensitive to the needs of the child.

However, there remains a lack of commitment to ensuring that all Canadian children are protected from harm. As Rix Rogers put it in 1995, we live in a country which is unwilling to admit that as a society we do not care for children as much as we say we do.

That the survivors we encountered, with notable exceptions, are mostly poor and were raised in poor households, speaks for itself. If it is true that how a society treats those most vulnerable speaks to the humanity of that society, the situation with respect to institutional child abuse reflects badly on all of us as Canadians, and on our country.

APPENDIX ONE

SURVIVORS / VICTIMS INTERVIEW SUMMARIES

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1.0 MOUNT CASHEL

This summary is based on information from interviews with nine survivors of Mount Cashel. All but one of these survivors is from the group that came forward about abuse occurring in the 1960's and 1970's. The other survivor was in Mt. Cashel in the 1950's. From a total sample of 15 names, we expect to obtain 12 or 13 interviews by the time of the final report. In Mt. Cashel, there was a police investigation, public inquiry, criminal trials, civil suit, two support programs, and a mutual support group.

1.1 Police Investigation

Most survivors first became involved in the process when they were contacted by the police. This was not always a positive experience. Some reported that the police contacted relatives to find out how they could be reached and told the relatives why they were looking for them. For some of the relatives this was the first time they had ever heard about any abuse. Others were contacted by the police told about the investigation and were led to believe if they did not participate they would be subpoenaed. About half of the survivors were very pleased with their involvement with the police. They found the police very professional, felt they were treated with respect and that the police supported them. The police traveled to Ontario to interview some of the survivors. There were mixed feelings about how well this was handled. Some found dealing with the police intimidating, others again found them very professional.

Some went to the police on their own after the public inquiry began. They found the police to be very professional at this time.

As most were involved with the police fairly early in the process, there was not a lot of counselling available at this time. However, some did feel that the police were very concerned about their needs proceeding quickly with the questioning and apologizing for the types of questions they had to ask. Most were pleased with the outcome of the police investigation and then the case was passed over to the crown prosecutor. Some of the survivors felt the police supported them throughout by giving them home phone numbers, going to court and asking how they were doing on a regular basis.

Some key points:

- differing opinions
- some very pleased with professional approach of police
- some felt very supported, were given home phone numbers and advice
- felt the police were really concerned and did a good job
- others felt the police used them as a means to an end
- there was no consideration of their needs and they felt intimidated
- some felt methods by which they were contacted was terrible and offered suggestions for better ways to contact people

1.2 Public Inquiry

Most of the survivors interviewed were involved in the Public Inquiry Process. The two who chose not to do so either because they did not want to come forward at that time or they did not want to expose their families to the associated trauma. After the fact, they were very glad they did not participate.

Those who did participate did not see it as a long process, but they found it an extremely distressing process. Many of the victims felt they had no choice but to get involved. They were contacted by investigators or commission lawyers. Some thought that if they did not agree to participate they would get a subpoena.

Most of the survivors had no idea what to expect from the public inquiry. Some thought that the truth might come out. They thought they would get out a lot of emotions and possibly feel better. They were dissatisfied with the outcome. They felt it changed very little except maybe public awareness. Many of them felt it put them on display.

Generally none of the survivors felt there was much consideration for their needs during the public inquiry process. They described getting to the hearings on their own, being left in rooms by themselves, and having no counselling support in place at this time. Explanations of the types of questions that would be asked were provided by the commission lawyers. One person described waiting to testify and being told at the last minute that his testimony wasn't needed, they had heard enough. Other victims told of being cut off by the judge, who said they were repeating themselves and he had heard enough. Generally the victims felt that the Inquiry treated others they interviewed from the system in a different and better manner than they treated the victims. They felt they were treated like offenders.

Most found this a very difficult time, did not feel that their needs were considered and were not pleased with the outcome.

Key points:

- many felt they had no choice about participation
- they felt unsupported
- were unprepared for what might happen
- felt alone
- were intimidated by the process
- felt they (victims) were treated differently than those who testified
- they were not offered the same courtesies
- some were called, but were told their testimony was not needed at the last minute

- the judge was not sensitive to victim's needs, some were cut off or were not allowed to say what they wanted to say
- felt they were not there for themselves but to meet the needs of lawyers and the system

1.3 Criminal Trial

Most victims did not see the criminal trial as being a long process, they related it only to the time they actually spent preparing for, or in, court. Many felt they had no choice as to whether to get involved. Some of them wanted the offender to be punished and wanted vindication for themselves. They generally expected the offenders to be found guilty and to serve time in jail. They expected that justice would be served.

Supports were still not in place when the criminal trials began. Some felt very unprepared for what would happen in the courtroom. Although the physical aspects of the courtroom and the procedure might have been explained, many victims felt unprepared for the emotional aspects and the kinds of feelings cross examination would bring out. Others described having regular contact with the crown prosecutor and feeling they were generally well informed.

In this process as well, the victims felt that the interests of the offenders were paramount over their own. The offenders were said to have been provided with special rooms to wait in, and were treated differently by the lawyers and judges. Some victims described the importance of being a "good witness." If a person wasn't a good witness, the process was devastating and he felt he was being treated like a criminal.

Most victims reported that counselling services became available during the criminal trial process. They found this to be very helpful and felt that someone was finally considering their needs.

Although most were satisfied with the outcome in terms of a guilty verdict, they were not satisfied with the sentences the offenders received and in how much time they actually served in prison.

Key points:

- some felt unprepared for the process
- some felt they did not have enough support, they needed someone to take them to and from court
- some felt they were treated like offenders
- some felt their feelings were not considered as much as the offenders

- some felt they were kept well informed and well supported
- some felt they were pleased with the process (justice was served)
- most were unsatisfied with the sentences

1.4 Civil Suit

Generally survivors got involved in the civil suit because they were advised to do so by the police, their lawyers or other survivors. Some got involved because it just seemed the logical next step after what they had already been through.

The civil suit lasted for approximately seven years. This was too long from the survivor's perspective. Most were unsure what to expect. Some expected some money to help them get their lives in order, they had no idea about the amount.

Generally survivors felt that their needs were met in some ways during this process. The law firm was very supportive with financial aid. There are differing views on how well informed the survivors were about the progress of their cases. Some people felt very well informed, others felt they were not. There are also differing views on the outcome of the civil suit. In terms of financial settlement some were very pleased, while others felt the amount was not enough. Also, some people were said to have used their money wisely to get their lives in order and others wasted it and now have nothing left.

Many felt that the civil suit was divisive for the survivors. They were treated as a group and there was pressure to hold out as a group. This became difficult because some were in great financial difficulty and wanted to settle. It was also generally felt that the process went on so long that individuals were worn down and exhausted by the process and felt forced to settle in the end.

Survivors were bitter with the Christian Brothers for what they saw as prolonging the process and wasting the amount of money they did on their defense. They felt this was money that could have helped the survivors.

Also some survivors expressed feelings that the civil suit gave them a negative image to the public. Some felt they were portrayed as "money grabbing", but that the public never really understood the damage that was done to many of the survivors.

The civil suit was also divisive in that different amounts of money were awarded to different individuals and this caused some resentment among them. One survivor left the group early on in the process and negotiated his own settlement.

Key Points:

- the process was too long
- victims felt worn down and compromised into settling
- a lot of money was wasted by the Christian Bros. on lawyers which could have gone to the victims
- generally victims felt they were well supported by their lawyers
- many were satisfied with the settlements they got

1.5 Crimes Compensation

This was not available for all survivors. Those who participated were notified by their lawyer that they better apply in a hurry because it was going to end. Some were never told about it. This was a relatively short process for most. There seemed to be little consistency among the survivors about how the process went. Some felt it was very efficient, that they did not have to tell their story again and quickly got some financial compensation. These people also felt there was consideration for their needs at this time. Others felt they had to argue their case and that it was very uncomfortable doing so. Generally the ones who participated were pleased to get some financial support at this point.

The major criticisms were that the process was unfair because everyone did not get to participate, that some felt they were treated unfairly and wondered why some people got more than others. They felt people should not judge “how abused a person is.” They felt the process should be in place for all victims and that there should be a standard way of dealing with everyone that is decided before the process actually happens.

Some key points:

- not available for all people
- people had to act quickly because it was being cut out
- some people felt it was unfair, how do you judge how abused a person was
- some felt they had to tell their story yet again and be judged

1.6 Reconciliation/ Mediation

This was not available to the survivors. However, it was something that they all wished had happened. They would have liked a public apology and acknowledgment of guilt. Some received apologies in court when perpetrators pleaded guilty, but they felt this was only because of the court situation.

1.7 Counselling

The general feeling about counselling was that it should have started earlier. Most of the survivors found it very helpful and wished it had been available to them at the very beginning of the process. Some decided they did not want counselling and others felt that they could not get counselling for as long as they really needed it.

They were pleased with how their needs were met during the counselling process and generally pleased with the outcome of counselling.

Some key points:

- those who had counselling were very pleased with it
- some decided they did not want it
- some felt it happened too late and should have been in place from the beginning
- some felt funding for counselling did not continue long enough
- people generally felt that counselling should be available for everyone as long as they needed it

1.8 Mutual Support

Mutual support, through the Survivor's Action Group (SAG), developed during the civil process. It had differing levels of significance for the men. Some found it useful to get together for coffee and general discussion, but they did not want to discuss anything about their abusive experiences. Others spent a lot of time talking about the past. Some of the survivors ended up providing a lot of support for the others to the point that it became difficult and draining for them.

It was reported that the group also promoted bitterness and divisiveness especially during compensation and the civil suit because some men were in a desperate financial state and needed to settle and others wanted to wait. There were some tensions associated with different amounts being awarded to individuals.

Some key points:

- about half felt that this was a very important process
- they really depended on each other
- the network they formed SAG, provided a lot of help to survivors who needed different types of support (financial, emotional etc.)
- some people felt this process went on too long and hindered the healing process
- some were not interested in participating at all

1.9 Other (MSAP)

Many of the survivors participated to some extent in this program. It lasted for three years. Most got involved because they were contacted and asked if they wanted to participate. They were generally unsure what to expect. Some wanted help getting an education; some needed some financial help and some needed counselling.

Many were unsure how this program operated. Generally they understood that money was provided for education and some counselling. Those who took advantage of the money for education and counselling were pleased with this program. Some others got financial help or bought computers. Several of the survivors were very pleased with what this program provided.

There seemed to be the perception among some survivors that the Brothers had control over what happened to the money and that things had to be checked with them. Some of the survivors expressed displeasure with the length of the program. They felt that three years was not long enough to pursue certain types of educational programs. Some also thought that survivors should be provided funding for counselling for as long as they needed it. Some felt they were not able to get funding for counselling.

Some key points:

- some were very satisfied with getting help with their education from this program
- some felt there was too much control of the program by the Brothers
- some had financial support from this program
- generally victims felt this program did not continue long enough
- it was not uniformly available to all victims
- it ended too soon

1.10 How to Prevent Children from Being Abused in Institutions

Survivors had many suggestions for how abuse can be prevented in institutions. .

The key points were:

- not so much control given to a few people
- people rotating through, so one person doesn't get to spend so much time there
- good screening techniques
- independent outsiders visiting on a regular basis

- safe people that children can turn to, someone who will always listen to what the child says and believe them
- women on staff
- more social workers
- private places that kids can use the phone
- more home like environment
- someone assessing how staff are interacting with the children
- if investigations take place, the people being investigated should not be told
- a phone number that the children can call if they have problems

1.11 Some General Themes/Concerns

Survivors were generally not pleased with how they were initially contacted or how they got involved in the process. There were no supports in place for them at the beginning, there seemed to be no perception of what their needs would be. There was no plan in place for how to support them through the process. Supports were put in place after the fact.

Many of the survivors were getting on with their lives when they got involved. For some, it had devastating consequences. They lost families and jobs during this process. The resurfacing of something that many of them had worked hard to forget for several years caused considerable emotional distress.

Most felt that their needs were not given adequate consideration during the process, and felt used by the system. They expressed a feeling they were there to meet the needs of those involved in the legal system and were used as required by them.

All were aware of the amount of money that the various lawyers made from the length of time it took for the court cases and the civil suit. They felt that this was money that could have been used to help survivors. They were also concerned that the public had the perception that they were only in it for the money, especially because the process dragged on so long.

Some felt it was worth getting it out and making “them” pay. Generally they were all displeased with the sentences the offenders received.

Some survivors said that at certain stages of the process they felt rushed. It seemed that the lawyers wanted to get things finished, that the process was going on too long and costing too much.

Overall, the process went on too long and caused many people considerable stress. The civil suit divided people, especially toward the end. There was a consensus that a process be put in place that ensures that these types of cases move as quickly and efficiently as possible through the system.

- many victims lost their families, jobs etc. during this process
- some people who had been doing fine with their lives went downhill after or during this process
- most felt re-victimized in some way by the process
- many described feeling “used” throughout the process

1.12 Survivor’s Suggestions for Improving the Process

1. Initial contact

The initial contact should be done in a very sensitive way. Contact by letter is probably the best approach. The individuals should be informed of the investigation and asked if they want to participate. There should be some discussion of what will be involved and a contact person for more information. The choice should be left completely up to the individual and they should be given time to think about it. A follow-up letter or possibly phone call could take place about 3-4 weeks later. At this point if the individual does not want to participate they should be left with a number to contact if they change their minds but no further contact should be made by the investigators.

2. Support Process

A process for ensuring the victims needs are met should be in place from the very beginning. The victims should be instrumental in deciding what there needs are and every effort should be made to put supports in place. These supports could include; transportation to and from court, a support person in court, ongoing counselling, a 1-800 number, etc.

Information and counselling support should also be in place for family members of victims who wish to participate in such a process.

3. Adequate preparation

Victims should be well prepared for each step they get involved in. It should be explained to them in detail, not just in terms of the logistical aspects but also in terms of how they might feel and how they will be supported.

4. Being kept informed

There should be an individual hired separate from the crown prosecutors who could keep victims informed of the progress of cases (postponements, changes in plea, etc.). This could include all aspects including any funding or settlements offered.

5. Crimes Compensation

This should be available for everyone and should be based on a guilty finding. Victims should not have to argue their case before a panel. Amounts should be pre- set, so that the process will be viewed as fair.

6. Counselling

Counselling services should be available for as long as the survivors think they need it. The survivors should have a choice of counselors. Family counselling should also be available.

7. The public inquiry

If a process such as this takes place, it should not become a public spectacle. Survivors should not be coerced into testifying. They should all be treated the same. Some got to testify in private, others did not even get to finish saying what they wanted to say. The judge cut them off saying he had heard enough. If they do want to say something they should get the opportunity to do so. The utmost consideration should be given towards protecting survivors during this process.

8. Survivor treatment

Survivors would like to be treated with respect during public inquiry, criminal trial and civil process. There was a general feeling that judges and lawyers treated officials from police departments, social services, etc. in a different manner than they were treated. During the criminal trial many survivors felt the Brothers were treated better than they were. They were allowed to wait in separate rooms. Some felt the survivors were treated like they were the offenders.

9. A watchdog organization

There should be an independent organization in place to make sure events proceed as intended, to oversee the process. There should be more consideration for sensitivity, and more emphasis on individuals instead of money and time.

2.0 STRATTON PROJECT SURVEY

2.1 Introduction

In the fall of 1994, an Independent Investigation was set up by the Nova Scotia Government to study allegations of abuse in five provincially run institutions. This investigation followed the conviction of a former staff member of the Nova Scotia School for Boys (Shelburne) on numerous charges of child abuse. Judge Stuart Stratton and his Investigators, Facts Probe Inc. (Harry and Dwayne Murphy), subsequently identified eighty-nine (89) victims and confirmed that abuse had occurred in three provincially run Institutions over a period of decades.

Subsequent to Judge Stratton's report dated June 30, 1995, the Government announced an Alternative Dispute Resolution (ADR) process. In mid July 1995, the Department of Justice contracted the Family Services Association (FSA) of Halifax to develop and administer a nationally based Interim counselling program (known as the Stratton Project), for survivors of Institutional abuse. Claims for compensating were managed by the Department of justice with the Murphys' continuing to take claimant statements. The RCMP (Operation Hope) Investigated abuse allegations in relation to possible criminal charges against former or current government employees. A public apology was issued by the Minister of Justice in May, 1996 and, given the steady increase in the number of claimants, the compensation budget was increased.

In December 1996, the Government announced changes to the ADR process in that the Murphys' would no longer be retained to take claimant statements. Rather, all future Investigations would be conducted either by the RCMP or directly by the Department of Justice's Internal Investigations Unity (IIU) or both. From December 1996 to October 1997, claimants could opt to be interviewed by the RCMP and have the IIU later review a videotape of this interview with respect to compensation, thereby hopefully avoiding another interview by different investigators. However, in October, 1997, further changes to the ADR process occurred and the Government advised that all investigations pertaining to compensation would now be completed directly and exclusively by the IIU. Some claimants were asked to submit to polygraph testing and consent to release of their medical records as part of this investigation. The ADR process remains ongoing with 1,311 survivors currently registered with the Stratton counselling Project, (1,142 males, 169 females). Approximately 200 additional claimants are registered with the Department of Justice, but they are not participants in the ADR process.

2.2 Sample Selection / Methodology

For purposes of this study related to survivors experiences and views of their contracts with various aspects of the legal system, twenty (20) survivors were interviewed using the standardized study questionnaire. The sample was selected or approved by Dr. Elsie

Blake, Administrator of the Stratton Project, in efforts to obtain a cross section of input and feedback. The sample is comprised of 17 males; (14 from the Nova Scotia School for Boys (Shelburne), 2 from the Youth Training Centre and 1 from St. John/St. Joseph's) three families (2 from the Nova Scotia School for Girls and 1 from the YTC). Eleven interviews were face-to-face, while the remaining nine occurred via telephone given the respondents distance from Halifax. Four males who participated are currently incarcerated and many others reported significant legal contact and difficulties throughout their lives. Two male respondents are Aboriginal, two are African-Canadian and the remainder are Caucasian. One female respondent is Aboriginal, two are Caucasian. The respondents year of birth ranges from 1939 - 1971.

2.3 Local Adaptation of Questionnaire Terminology

As the standardized questionnaire was used in all six study sites, its terminology was adapted where necessary to reflect the ADR/Stratton Process to capture relevant data. The following changes were made:

1. Public Inquiry - Independent Investigation (Stratton Project)
2. Crimes Compensation - Interim Counselling Award (\$5000.00) allocated to claimants to deal with the aftermath of disclosure and involvement in the legal investigation process).
3. Counselling - participation in ongoing psychological counselling or educational training as part of their compensation settlement.
4. Other - Internal Investigation Unit (IIU), Department of Justice.

2.4 Findings / Observations

All respondents were involved in the ADR process as this was a pre-requisite for their eligibility in the counselling project. Of the 17 male respondents, 13 participated in the independent investigation, one testified at a criminal trial and 12 were interviewed by the police. Approximately half of all respondents in this sample were also interviewed by IIU. The three female respondents each participated in the independent and police investigations and none were involved in a criminal trial. Thirteen males and two females received interim counselling while two males and one female reported no knowledge of this opportunity.

A review of the data indicated that for the most part, survivors were satisfied with contact with Judge Stratton and his investigators. Most appreciated the anonymity, privacy and understanding offered by an independent inquiry, although several urged a more public inquiry to increase general public awareness about the nature and extent of the abuse that occurred. Many respondents strenuously and vociferously objected to the many different

legal investigations in which they were required to participate. The addition of the IIU investigative layer in particular may explain, at least in part, the respondents high degree of dissatisfaction and intense anger and hostility directed both to that specific process and to the investigators themselves. Several expressed the view that they “were interrogated...as if we were suspects...as if we had done something wrong”.

Many respondents expressed the view that the ADR model at least theoretically, represented “the easiest way” for most survivors to obtain justice and fairness. The elements of privacy, access to legal services and counselling support, the public apology and a compensation review process were all cited as important factors. However, several survivors were very critical of their experience with ADR, referring to it as “not public enough...structurally flawed...garbage...cold and impersonal...a crock...re-victimization”. While others were somewhat less critical, they too expressed concerns and objections about the numerous procedural changes that occurred and what they saw as a general lack of political accountability. A number of respondents felt the ADR lacked any meaningful survivor input in the program’s design and structure and no mechanism for victims feedback to the ongoing process. As well, several stated that the ADR reflected government not victim needs. Many objected to the use of categories to define and rate their childhood abuse experiences”...It’s like they were labeling beef”. Some suggested that survivors, their counsellors or other professionals “besides legal people” should have had a direct role in reviewing claims and deciding compensation. Several respondents expressed the view that financial compensation should have been tied to claimants’ participation in education and upgrading, job skills and life skills training “ so they could improve their lives”. Others were adamant that survivors of institutional abuse deserve direct financial compensation for the abuse, harm and suffering they endured.

The majority of respondents participated in counselling and generally reported this involvement as helpful, constructive and sustaining. They unanimously recommended that counselling be a mandatory part of any compensation program. Several objected to financial limitations placed on their counselling funds and expressed fear and anxiety about “what will happen” when counselling allotment expires. Most of the survivors interviewed participated in individual counselling with many suggesting they would not have been comfortable to attend self-help type groups. Some felt that the counselling options should have been more diverse and more inclusive of grass roots services.

When asked about prevention of institutional child abuse, many respondents suggested improved staff training and hiring “only qualified people” who knew “how to deal with kids’ behavior” and who have undergone extensive background reference checks. Several suggested that a body separate from Government such as a Children’s Advocate or Ombudsman provide external monitoring and “just drop in unannounced and check on things”. Some recommended increased use of video cameras within youth facilities and a couple of respondents referred to inherent danger of “giving a child an indefinite sentence”.

2.5 Conclusion

Virtually all survey respondents expressed a willingness to complete the questionnaire in hopes they “might be able to help someone else”. During the interview, several became quite angry and hostile and subsequently apologized to the interviewer for having done so. Others became saddened and overwhelmed when recounting their experiences with the legal system as survey questions seemed to trigger emotional feelings and issues seemingly not far from the surface.

While most survivors in this sample reported initial optimism and confidence in an ADR process, many have since become disillusioned. They frequently described feeling disrespected, humiliated, unheard, accused, powerless, betrayed and re-victimized. Clearly governments or institutions designing ADR processes in the future would do well in the words of one survivor “to get it right the first time”.

If survivors in this study are representative of survivors in general, then hundreds of claimants have been negatively affected by time delays, procedural changes and multi investigations by different interviewers and systems. As well, the categorization of their abuse has deeply frustrated and pained many of those interviewed. Several respondents believed that use of this system “triggered” false or exaggerated claims thereby creating “suspicion” and “unfairness” directed towards “the real victims”. On the other hand, many survivors reported “coming forward” not only to seek compensation and redress, but also to emotionally deal with their childhood maltreatment experiences. The majority of survey participants reported at least some success with this specific goal.

The final words of this report belong to the voices of some of the survey respondents as they alone can best reflect and capture their emotional experiences.

- “the ADR process was disrespectful...I felt dirty all over again”.
- “My mom insisted that I go to Shelburne where I would learn right from wrong. In her heart she was doing the right thing. I could never tell her what happened there”.
- “Big Government people knew the abuse was going on. They just closed their eyes to it”.
- “Counselling worked for me. My soul feels like it fits my body again”.
- “The abuse badly affected me. Money won’t change that”.
- “The ADR was a crock. The politicians were in control; the victims were railroaded and the lawyers were bullied”.
- “You can’t abuse a kid hundreds of times and have him turn out alright”.
- “I got sent to Shelburne as a young kid for truancy, but when I got there, I didn’t have to go to school. Some irony, huh...”.

- “One investigator says ‘maybe you asked for it’. What 11 year old boy asks to be fondled by a pervert”?
- “Government should stick to their commitment and stop changing the rules to suit themselves...They just did what they wanted”.
- “No amount of money would take away the pain/humiliation suffered during this investigation. We didn’t get justice. They treated us like shit.”
- “I expected an apology and got one. This was the most important part.”
- “There should be a full public inquiry. The focus so far had been on Government saving money, not on the abuse.”
- “I have no faith or trust in the system anymore. I thing about the impact of Shelburne on my whole life”.
- “At least, part of this process should have been more public. A lot of politicians wanted to keep it at an institutional level and keep the blame on the counsellors and even on the victims.”

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3.0 THE GRANDVIEW (GALT) TRAINING SCHOOL FOR GIRLS

3.1 Introduction

The following is a summary of themes emerging from the interviews conducted with survivors of the Grandview Training School For Girls, as part of the study being conducted by the Institute for Human Resource Development for the Law Commission of Canada. The summary is organized in relation to the following interview topics:

- Comments about the legal aspects in which the women participated (i.e., criminal trial, police investigation and reconciliation/mediation);

- Counselling;
- Group support; and
- The prevention of institutional child abuse.

It should be noted that the potential legal aspects in which a woman could participate with respect to the Grandview Institution excluded a public inquiry and criminal compensation. As well, all of the women interviewed had participated in the Grandview Agreement process, as opposed to pursuing a civil suit against the government. We also remind the reader that there were two distinct groups of applicants under the Grandview Agreement, and that the Agreement process differed slightly for each of these groups (e.g. the process was more streamlined for the second group; only the first group was able to access interim benefits as they went through the agreement process, e.g., counselling/therapy, a dedicated crisis line). Some of the differences in the opinions we heard have to do with whether the interviewee was involved in the first or second group of Agreement applicants.

3.2 Criminal Trial

Only two of the women we spoke to took part in a criminal trial. Another commenced criminal proceedings but withdrew because of the nature of the process. Others were interviewed by the police but did not lay charges. While not necessarily participating in criminal trials themselves, several of the women did attend the criminal court proceedings. They spoke about the importance of achieving a sense of closure from seeing their perpetrator in court, but also referred to the limits of the judicial system in being able to be sensitive to survivors' needs. All of the women said that they were either unsatisfied or very unsatisfied with the consideration for survivors' needs in the criminal trial; only one was satisfied with the outcome. Suggestions for improving the criminal trial process for survivors included providing more education throughout the criminal justice system about survivors' issues and raising awareness of how the current system re traumatizes victims. In addition, one woman said that forbidding survivors from talking to each other when they were involved in criminal trials deprived them of essential support.

Reasons for not taking part in a criminal trial included concerns that it would be too traumatic, distrust of the legal system, and the belief that there was not enough evidence to proceed with criminal charges in their case.

3.3 Police Investigation

Most of the women were interviewed as part of a police investigation. There was a sharp division between the experiences of women who were interviewed early on in the Agreement process and those who came later. Many of the women spoke about police appearing at their door with no warning, asking sexually explicit questions without female officers present, appearing uninformed about issues of sexual abuse, being insensitive to

safety issues for women in prison and often being flippant and dismissive. The majority of these women described themselves as “very unsatisfied” with the consideration given to survivors’ needs in the police investigation. (In fact, as a result of complaints, a change was made to the investigation team) Others, primarily those who were interviewed later, said that the officers who spoke to them were more sensitive to both their privacy and their feelings, and described themselves as “very satisfied” with consideration given to survivors’ needs,. However, the majority of women from both groups ranked their satisfaction with the outcome of the police investigation from very unsatisfied to neutral.

In general, women expected to be treated with disrespect by the police, and were surprised, and in many cases grateful, when this was not the case. All identified the police investigation as a time when they needed support; for many women, it was the first time they had thought of, or spoken about Grandview in years, and they found themselves overwhelmed by painful memories. It is important to note that because many women had not told their partners, children or friends that they had been at Grandview, the unannounced arrival of the police at their homes was particularly shocking and invasive.

Suggestions for improving police investigations into institutional abuse generally focused on the need for more education about sensitivity to survivors’ needs. One woman said that it is essential that police “know the difference between victims and perpetrators” so that investigators do not treat survivors as if they are criminals.

Women who did not take part in a police investigation said that they had heard later that the police were looking for them, but were unsuccessful in finding them. One simply refused to participate based upon lack of trust for the justice system.

3.4 Reconciliation / Mediation

All of the women interviewed took part in the reconciliation/mediation process (the Grandview Agreement). They learned about the process from other survivors, from the police or through the Grandview Survivor Support Group (GSSG), particularly the GSSG outreach worker. Others read about the process in the newspaper, or heard about it from family members or friends.

Generally, expectations were low since many said they had no reason to trust the government. A few felt that they really had no choice but to go along with the others; they felt they did not have enough time or emotional support (e.g., counselling) to think through their options. In looking back, a few women noted that they did not necessarily have clear expectations and decided to participate primarily because they wanted to reconnect with some of the other girls; as they became more involved they felt the need to “see justice done” and to achieve public recognition that the abuse “was not their fault”. Some expected the process to be less threatening than court, to have a greater probability that their abuse would be acknowledged, or to be a way of getting closure on a difficult part of

their lives. Women in the second group were more likely to have heard about the process from others and generally had clearer expectations (e.g., to get an apology, to get educational benefits, as well as to go through a less threatening process). For the first group, expectations about the actual process were generally more negative (“I expected the worst”).

All the women said they needed support as they went through the process, because talking and thinking about their years at Grandview awakened many difficult memories. They identified family, friends, counselling, Government staff who administered the Agreement and GSSG members (especially the outreach worker) as important sources of support. Some said they needed support but did not receive it. Those from the second group all said that they could have used counselling at this point, but unlike the first group, they were not able to access interim benefits that included counselling.

Most women said they needed information about the process itself so they knew what to expect, and about the agreement in particular, so they could understand the decisions they were being asked to make. Some got this information from their lawyers, Agreement administrative staff or GSSG outreach worker. Many felt they did not get all the information they needed or wanted. Generally, women who were involved from very early on in the agreement process were the most dissatisfied with the amount and clarity of the information they received. In particular, many from the first group were dissatisfied with their lawyers, some were angry because their lawyer never met with them in person and billed them in addition to the amount paid by the government.

There was no consistent pattern in ranking satisfaction with respect to “consideration for survivors’ needs” or “the outcome of the process”. The responses were fairly evenly spread from very unsatisfied to very satisfied. However, the following themes did emerge:

- Almost all women mentioned the adjudication process in positive terms; they felt the adjudicators showed sensitivity and empathy. Many mentioned that the adjudicators allowed them to take the time they needed to tell their stories, and that this sensitivity to pacing was both very important to them and a major contrast to What happens in court proceedings. Some women identified the importance of being able to talk to a Native adjudicator;
- In addition, a large number of women said that the most important outcome of the process for them was being listened to and believed; and that the adjudicator played a key role in this; several women said that when they read the adjudicator’s comments in their validation letter, they knew that they had been heard;
- Many women said that the benefits, especially the education and counselling benefits, were very important, and in some cases, more valuable than the financial award. Several women said that their experiences at Grandview deprived them of an education, and for that reason it was essential that the package address educational needs. One woman felt that the agreement should have focused on

what Grandview promised but did not deliver: education, counselling and job training.

- While most women appreciated the financial award and felt that it was very important, others said that it felt like “blood money”. Several women added that there was no amount of money that could make up for what they experienced at Grandview;
- Many women identified difficulties they experienced going through the process, as they struggled with traumatic memories; it was very important that the government staff who administered the agreement were sensitive to their issues and needs as survivors, in addition to being able to give them clear information about the process. Almost all of the women identified these administrators by name and emphasized how much they appreciated their kindness, patience and empathy. In one woman’s words, the administrators were so helpful and considerate “you didn’t realize you were talking to the Attorney General’s office”;
- Several women said that going through the process caused problems with their parents and siblings who did not want to “stir up old issues” others mentioned that the process put a strain on their relationship with their partner. Many women who had not previously told their children about being at Grandview said that they were uncomfortable about having to talk to them about their experiences, some said this ultimately strengthened their relationships;
- A common point of dissatisfaction with women from the first group was that they understood that the government was going to pay their lawyers’ fees in total, and they felt that it was not right that they should be billed as well;
- Many women identified the importance of the government acknowledging that abuse had occurred at a Provincial institution, and of the apology, which they have not yet received;
- Some women felt that the government was not considering survivors but was just trying to keep them quiet by “paying them off”;
- A number of women said that they did not feel the financial award was fair (either because they felt they got less than women who had experienced less abuse or because everyone should have got the same amount); some said that there was no agreement that could have satisfied them after what they had experienced;
- Some women felt that justice could not be served by the agreement itself, because there was no public inquiry; the issue was never brought to the attention of the public at large.

Recommended changes to the Agreement process included the following:

- the need for more clear, consistent information about options to the agreement, the process itself, how to access benefits and limits of the agreement (time lines, lawyers' fees, etc.) was identified by many of the women from the first group;
- because clear and timely information was seen by many women to play an important role in helping them cope with the stress inherent in the process, some said that more administrative staff were needed to answer questions and provide information; one suggested that volunteers and social work/counselling students might fill this role. Awareness of and sensitivity to survivor issues was seen as paramount for all government staff working to negotiate and/or administer such an agreement;
- women from the second group who did not have access to interim counselling, the GSSG outreach worker or the dedicated crisis line, emphasized the need for more support during the process;
- several women said that getting a large lump sum of money was problematic and even dangerous for some women with addictions; they suggested that some of the money should be held in a trust fund;
- some objected to the deadlines related to accessing awarded benefits, since many women had lived with the consequences of their abuse for years and needed time to be able to take advantage of benefits such as education and in some cases, counselling;
- a few felt that there should be more input into the decision making process by survivors; they felt that too many decisions were made in a condescending manner by government people who thought they knew best what survivors needed;
- some mentioned that the time between adjudication and validation should be shorter;
- a number of women felt that it is essential to make the issue of institutional abuse more public, both to prevent its occurrence in the first place and to help survivors move beyond the shame of what happened to them;
- one woman emphasized the need to include all names of the institution in outreach efforts (i.e., Grandview was formerly known as the Galt Training School) because survivors might not be aware of changes;
- the following suggestions were made about other benefits that should have been included in the agreement:
- increased attention to the needs of women with HIV and Hepatitis C;
- counselling support for family members;

- more creativity, flexibility and thoughtfulness to the structure of the educational benefit and the supports that women may need to take advantage of this benefit (it was noted that many survivors have literacy problems. As well, going back to school can be extremely difficult because the women were abused in an educational institution);
- while not widely expressed, there was a strongly held view that women who do not want to make use of the educational benefit themselves (e.g., due to age) should be permitted to pass this benefit on to their children; “it’s theirs, they deserve it and they should be able to use it as they want to”.
- survivor and death benefits;

In addition, several women said that any future reconciliation/mediation processes should consider the impact of institutional abuse on survivors’ abilities to negotiate agreements and access benefits. As one woman put it,

- “Although the agreement process was in many ways carefully thought out, it required a fairly high degree of understanding and ability to negotiate the system from survivors. They treated survivors as if they had never been at Grandview. All the skills Grandview took away from us were needed to get the most out of the process”.

In speaking about the Agreement process in general, most said that the agreement was much better than a court trial, because court would have involved speaking about painful experiences in front of many people in a hostile environment. In the agreement process most felt they were listened to, believed and treated with respect. Several women identified the courage it took for the first group of survivors to approach the government and go through the process of negotiating the agreement. Others said that going through the process was hard, but made them stronger and more able to come to terms with their past.

3.5 Counselling

In responding to questions about counselling, women referred to the clinical counselling/therapy available to them through interim benefits and/or after validation.

Most women interviewed had or were currently accessing counselling through the Agreement benefits. Several said that they had not taken advantage of this benefit yet, but were planning to. A small number said that they had not and did not plan to access counselling because they did not feel they were in need of it.

Availability of counselling was identified as an essential component of the Agreement, even by women who did not choose to use it themselves. In addition, interim counselling to help women cope with the process was seen as very important by most women.

In general, there was a high degree of satisfaction with both consideration for survivors' needs in the provision of counselling, and the outcome of counselling itself. There was strong support for the notion of "therapist of choice" and the flexibility that the Agreement allowed with respect to, for example, native approaches to healing from abuse. However, a number of women expressed dissatisfaction about the restrictions related to choosing a counsellor; interim counselling was initially provided exclusively through Family Service Agencies, and this was viewed as especially problematic. Reporting requirements and paperwork that sometimes took up whole sessions was another common source of dissatisfaction. However, by far the most common source of dissatisfaction was the financial cap (\$10,000) on the counselling. Many women felt that these limits left them stranded in their healing process by cutting off counselling before they were ready. This was especially true for women in the first group, many of whom used up their counselling dollars getting through the agreement process. Now that they are beginning to take advantage of the educational benefit, the support they need is no longer available. (Note, this is compounded by the fact that the GSSG no longer operates and the dedicated Grandview crisis line has been discontinued). One individual felt that counselling should have been available prior to her decision to participate in the Agreement.

3.6 Mutual Support

The Grandview Survivors Support Group (GSSG) was identified by many women as an important source of support and information. Many felt that the GSSG played an essential role in ensuring that survivors' needs were represented in the negotiation process. In addition, the GSSG outreach worker position was seen to be important in reaching women who might not otherwise know of the Agreement, and in providing support and information to women as they went through the process.

A number of women expressed concern that financial support from the government created problems for the GSSG. They felt that the government initially provided money in the hopes that the group would just go away. Some felt that providing money without sufficient accountability requirements or organizational support was unethical. A small number stated strongly that government funding undermined the survivor-driven nature of the group and resulted in too much government control.

While some women identified the important role the GSSG played, they said that they had not chosen to be involved with the group because they felt they had little in common with group members. A number said that they stopped attending because the lack of control at early meetings made them feel they were back at Grandview.

In general, most women expressed satisfaction with the outcome of the GSSG, even though some felt dissatisfied or very dissatisfied with the consideration to survivors needs reflected in the government response.

3.7 Prevention Of Institutional Child Abuse

In discussing the changes necessary to prevent the institutional abuse of children, many of the women stated that the practice of institutionalization should be discontinued. Most of the women who commented on this question said that the nature of institutions makes them breeding grounds for abuse, and that it is only through increased vigilance, education, and public awareness that the abuse of children can be minimized. A climate of openness rather than isolation was seen as a key factor in reducing opportunities for abuse to occur, and a number of women suggested that close supervision by individuals not employed by the institution was important so that evidence of abuse could not be ignored or hidden. Several identified the importance of training to highlight awareness of the signs of abuse and how to respond to them. Others said that it was essential that all staff working in institutional settings be carefully screened and monitored according to strict guidelines for appropriate behavior. Some noted that under no circumstances should male staff be permitted to work on their own with girls.

A number of women suggested the creation of a child advocate or ombudsperson role, to provide a safe, independent person for children to talk to. They emphasized the importance of ensuring that children have easy access to such a person. In addition, many said that it is essential to not only listen to but also to protect children when they raise allegations of abuse. One individual felt strongly that children should be informed about what could happen in institutional settings and about the potential consequences of disclosure. She noted that once a child discloses abuse she must never be left alone because of the potential repercussions from other staff.

4.0 THE DUPLESSIS ORPHANS

4.1 Background

Between 1930 and 1964, several thousand Québec children who were either abandoned, orphaned, or left in the care of the state were raised in large institutions operated by various congregations of Catholic nuns. The care they received was rudimentary at best and the discipline was harsh by today's standards. They were often neglected, and abused physically and sexually. Deprived of a basic education, many were falsely labelled mentally-ill or mentally-retarded and placed in mental hospitals and asylums along side mentally-ill patients. Under the supervision the medical profession, many of these children received treatments normally reserved for mentally ill patients including drugs, electro-shocks, isolation, etc. It is these children that are collectively called the Duplessis

Orphans. The reference to Duplessis comes of course from the regime of Maurice Duplessis, premier of Quebec from 1944 to 1959.

To understand the plight of the Duplessis Orphans, it is important to place the issue in its social, political, economic and religious context. While it is not within the scope of this study to go into great detail on the history of Quebec during this period, it is nevertheless useful to summarise some key points. Maurice Duplessis and his Union National Party were going in the opposite political and economic direction to that of the federal government. The latter was taking a decidedly interventionist orientation in matters of health and welfare as a compromise between the wealthy Canadian establishment on one side and the working class and the growing middle class on the other. Canada was establishing its “welfare state”. Quebec, on the other hand was opposing the creation of the welfare state, choosing instead to support the wealthy Canadian (and American) class in Quebec as well as rural land owners. It was following a non-interventionist (*laissez-faire*) liberalist orientation. To meet the social welfare needs of the growing population, it maintained what is referred to in French as the “*Sainte Alliance*”, the (holy) alliance between Church and State and left the control and administration of many welfare programs, including the care of orphaned children, entirely in the hand of the Catholic Church in Quebec. (Valliancourt, 1988). The province was able to keep its share of the cost of caring for orphaned and abandoned children to a minimum by placing these children in psychiatric hospitals and thus qualifying for federal health funds (Le Protecteurs des citoyens, 1997).

4.2 Public Awareness

The plight of these orphans came to the attention of the public and the authorities via the media. Stories of orphans were put into print and later on film. First to appear, in 1961, was a book entitled “*Les fous crient au secours*” (The crazy people cry out for help) by Jean Charles Bélanger. The book was essentially an expose of conditions in psychiatric institutions. While provoking little public reaction, it did lead to the creation of a commission of inquiry into the conditions in psychiatric hospitals in Quebec. The report published in 1962 and entitled “*Rapport de la commission d’étude des hôpitaux psychiatriques*” more commonly referred to as the Bédard Report, documented the fact that countless children incorrectly diagnosed and mentally retarded and mentally ill were placed in psychiatric hospitals along side those who were genuinely sick. The report largely contributed to ending the practice of placing orphaned children in psychiatric hospitals.

While the practice did cease the problem remained that thousands of these children were growing up and leaving the institutions for life in society. The plight of these children was portrayed in a book entitled “*Ma chienne de vie*” (My dog’s life) written by one of the Duplessis Orphans, Jean-Guy Labrosse, in 1964. Labrosse would write two more books in the 1970's about his own life and the lives of other Duplessis orphans. For the next two decades, very little appeared on the topic.

Much later, in 1991, after stories began to appear on television, another book “Les Enfants de Duplessis” (The Children of Duplessis) written by Pauline Gill described the story of Alice Quinton who was raised in two such institutions. Soon after, in 1994, Bruno Roy, himself a product of the institutions, wrote a detailed account of the injustices suffered by the Duplessis Orphans in his book “Memoire d’Asile”. Most recently, this year, a four part mini-series entitled “Les Orphelins de Duplessis” based on a book written by Roy “Les calepins de Julien”, largely portraying his time in the institutional system, has been shown on CBC television in Québec. The plight of the Duplessis orphans is now firmly established in the consciousness of the Quebec public.

4.3 The History of the Legal Aspects

The move to obtain justice began in 1992 when Hervé Bertrand and other former Duplessis Orphans approached a lawyer, Robert Fauteux, to seek his help in launching a class action suit. Fauteux formed a legal team of five lawyers including himself. The first step involved identifying the victims. After more than a year, the legal team was able to contact nearly 1,800 victims from seven different institutions. A special committee was formed to represent the interests of the victims. This led to the creation of “Le Comité des orphelins et orphelines institutionnalisés de Duplessis” (COOID). Subcommittees for each of the seven institutions were formed to represent the interests of each subgroup. The administration of COOID was first managed by a small council lead by Jean Guy Labrosse. As the need for better administrative control increased, an executive was elected with Hervé Bertrand as the first president. The legal team was expanded to include two more lawyers as well as a sociologist, a psychologist, and an historian. The expanded team set out to research the legal and historical aspects of the case, the purpose of which was to develop a clear portrait of the legal, social, economic and religious context in which the cases transpired and to show that the cases of the numerous victims stemmed from “les actes similaires” (similar acts). The first legal step included presenting a request for financial assistance “Les fonds d’aide au recours collectif” at a hearing. The request was rejected on the grounds that the cases of the victims were not similar acts but constituted separate cases. The case was appealed at the next level with similar results. The legal team interviewed close to 1,000 victims to prove again that the cases involved similar acts. A data bank of information was established. Special lawyers were recruited who were experts in class action suits. The case for financial assistance was presented at Quebec Superior Court and, after five days of hearings, again the case was rejected for the same reason as before. It was suggested that victims should take their case to the criminal justice system. After two years and with at times 20 people working full time on the case, the legal team attempting the class action suit had come to a dead end.

In the meantime, some individual victims approached the Montreal Urban Community Police to make formal complaints of acts of a criminal nature. Since the case involved victims throughout the province, the case was transferred to the Quebec Provincial Police. The police carried out separate investigations involving 241 individual victims. While most

victims felt that the police did their best, some victims reported that police used language unfamiliar to them in order to deliberately confuse them. The Crown Prosecutors involved in the case met with each of the victims and, in the end, decided not to proceed with prosecution on any of the cases on various grounds; that the victims made poor witnesses, that the accused were old, and some had died. In general, the Crown stated that cases against the accused were too weak to proceed.

It should, however, be noted that one victim chose to proceed with criminal proceeding against an accused individually without the involvement of the Crown Prosecutor's office. The case involved sexual abuse and it resulted in a guilty plea.. The case did not go to trial, no damages were paid and the results were not made public. In 1993, following the failure of the class action suit, and the decision of the Crown not to prosecute, Paul Bégin, then Minister of Justice, announced that the case of the Duplessis Orphans was closed.

Feeling the they had run out of legal options, representatives of COOID took their case to the Quebec Ombudsman`s office. The Ombudsman`s office carried out an investigation lasting six months. It published a report in January of 1997, in which they explained that it was a futile exercise to lay blame. Nevertheless, among its key recommendations was: 1) that the Government of Quebec, the Quebec Order of Physicians, and the Religious Orders make a public statement of apology, 2) that the victims receive compensation, and 3) that money be set aside for counselling for victims. The report was presented to the Commission of Institutions of the Quebec National Assembly in March of 1997. The Commission made up of 12 members of all parties, unanimously endorsed the report.

4.4 Methodology

Since the Duplessis Orphans are for the most part unilingually French, the information forms, consent forms, and the questionnaire for victims were translated into French by the investigator. In addition to the data collected by means of the interviews, COOID provided the investigator with legal documents, correspondence, video cassettes of the mini-series, and newspaper articles. The books written by or about victims as well as the report of the Ombudsman completed the data for this case study.

The data collection phase for this case study started in August 17 and as of the writing of this report, nineteen victims (seventeen face to face and two phone interviews) and six professionals have been interviewed and pertinent documentation has been reviewed. Below is a description of the findings and some of the major themes that have emerged from the study.

4.5 Findings

Unlike the other cases in the study of institutional abuse where there has been some acknowledgement of injustice suffered by victims, no such acknowledgement has been forthcoming from the Québec Government, the Catholic Church, or the medical profession in Québec in the case of the Duplessis Orphans. As a result, the overall theme that has emerged from the interviews is the intense need on the part of victims for some of public statement recognizing the injustice they have suffered. While they can accept that during the time in question standards of care and discipline were harsh, what they can't accept is the lack of education and, more importantly, being falsely labelled mentally-ill or mentally-retarded, permitting the authorities to qualify for additional federal funding. The practice of falsely labelling the Duplessis Orphans as mentally ill or mentally retarded was so blatant that when one victim finally obtained her file, she discovered that she was labelled mentally retarded even before she was born. Victims have had to live with these labels their entire life.

Following are some the findings that have emerged from the interviews and the review of the documentation:

4.6 Question 1: Support for Victims

The Class Action Suit

Most victims spoke about the class action suit launched by COOID. In fact, COOID was created to facilitate the class action suit. A great deal of time and effort was devoted to this suit by members. Victims' hopes were raised about finally obtaining justice.

However, victims reported that the suit stalled because of lack of funds. Victims were each asked by the lawyers to contribute \$300.00. Since most live on social assistance, this amount was more than most could pay. Any attempt to obtain government funds to pursue the suit was refused. The conclusion they drew from this experience is that there is only justice for the rich but not for the poor and vulnerable.

Much of what the victims reported in terms of being placed in psychiatric institutions and the lack of education was not disputed by the spokesperson of the religious orders. The response is basically that they were put in a situation where they had no alternative. They were understaffed and underfinanced. Their position is that they did the best with what they had.

The Police Investigations:

Most victims reported being involved in a large police investigation that took place during 1992 and 1993, during which time the police reviewed 241 cases of abuse. Some victims reported that police were intimidating and disrespectful and used terms unfamiliar to them. For example, one male victim who had complained of sexual assault was asked by police if

he had been sodomized. Being unfamiliar with that term, he responded by saying no. The police then concluded that he could not have been assaulted. These victims reported feeling that police used these tactics deliberately to confuse them and protect the authorities.

Most victims, however, reported that police did their best to help victims but that their hands were tied by the Crown Prosecutor's Office. One victim reported that, during an interview with the crown prosecutor and the police investigators, when the crown prosecutor was challenging the victim's testimony, the police investigator actually got up and defended the victim. He was told by the crown prosecutor to sit down and be quiet.

Victims were unanimous in their criticism of the crown prosecutors involved in the criminal investigation. Reports ranged from "She did the minimum required" to "She was only interested in protecting those in power" Victims were made to feel that they were the guilty party. One victim reported being called in to a small office by the crown prosecutor and told "You will never get justice in this case. If you want justice, you will have to see the politicians."

On the question of maltreatment, the spokesperson for the religious orders was adamant that the nuns did not abuse the children. They had limited means of controlling the behaviour of the children, they did use methods which would be condemned by today's standards but the stories of abuse, they claim, are exaggerated.

4.7 Question 2: Level of Satisfaction

Most victims reported being very unsatisfied with the various legal aspects in which they were involved. The failure of the class action suit left many victims disheartened and bitter. Some who were actively involved in the effort have since then dropped out of sight and have had no further contact with COOID or other victims.

With respect to the criminal investigation, there was some measure of satisfaction. One victim pursued a criminal case on his own without the assistance of the Crown. The accusation involved sexual assault. The victim did succeed in obtaining a guilty plea.

Nevertheless, even in this case the victim was dissatisfied with the overall support available for victims. In fact, in his case, since there was a guilty plea there was no trial and no opportunity for victims to witness justice being done. Furthermore, there was no fine or damages awarded.

Notwithstanding the decision by the Crown not to proceed to criminal prosecution, this case and the resulting guilty plea did confirm to many victims that their case was just.

4.8 Question 3: Reasons for Not Being Involved

The only legal aspects that applied to the Duplessis Orphans include the criminal investigation and the class action suit. Everyone interviewed reported that they were involved directly or indirectly in these proceedings in spite of the intimidation they felt was used against them by police and the crown prosecutors. Some did express frustration about the lack of results and stated that any further involvement was futile.

4.9 Question 4: Choices Available

All victims interviewed reported that they were never presented with choices in their case. They are not yet at the stage of discussing different forms of legal redress.

4.10 Question 5: Suggested Changes

All victims also reported feeling extremely distrustful of anything emanating from the government. They believe that what needs to change is the basic attitude of the government who seems only interested in protecting the Catholic Church and the medical profession instead of the victims. Victims are unanimous in this feeling.

4.11 Question 6: Needs

Here again, all victims interviewed felt that, as a minimum, they should get a public apology and a financial settlement. This they feel would allow them to put closure on the past and allow themselves and their families to have some financial security and not end their days in poverty.

4.12 Conclusion

The victims in this case are among the most vulnerable in society. With no money, little or no education, and a great deal of self-doubt, these people do not have the resources required to maintain a prolonged struggle. Furthermore, they are getting older. They need to put closure on this situation. They need a public statement that what happened to them was wrong and they need some compensation to make their life a little easier during their remaining years.

These people have lost a great deal. Almost all have lost opportunities for a normal family life, for a career, and for a healthy life. In a study conducted jointly by the Jewish General Hospital of Montreal and McGill University in 1997 comparing health status of members of COOID to low income respondents to a health survey conducted in Quebec in 1987, there were significant differences between the two populations. The study revealed that on every indicator of health such as life stress, chronic illness, suicide and general personal

problems, the health status of members of COOID were much worse than the comparison group.

On a personal note, I found this study a very difficult exercise. I was very moved by the stories of victims and their struggle to get justice. While I remain optimistic that justice will eventually be done, it is difficult not to become cynical about our social institutions.

5.0 ALBERTA - Provincial Training School, Alberta Hospital, Cormack Centre

5.1 Brief Background

In Alberta there has been no formal Public Inquiry, Criminal Trial, Police Investigation, Crimes Compensation or Mediation Board set up. Only one individual successfully filed suit against the government in a much publicised trial. She was awarded an award of approximately \$740,000.00 plus legal expenses in January 1996.

All of the individuals interviewed (other than LM) first contacted their lawyers during or shortly after the Muir trial. None of them have as yet to go to court. In January of 1999, 19 representative plaintiffs are scheduled to go to court. Some of these individuals are among those interviewed. They are among the 300 plus individuals who have filed suit against the government for unlawful sterilization and other forms of abuse.

The government has reached settlement with approximately 500 former residents who were under public guardianship. These individuals were typically the more severely handicapped and retarded. They each have received a settlement of \$100,000.

In March of 1998, The Government of Alberta introduced and 2 days later, after much public criticism, 1998 Bill 26, legislation that would have created the Institutional Confinement & Sexual Sterilization Compensation Act that would have restricted the rights of the victims of institutional abuse to sue the government. The widespread public outrage that followed the introduction of the Bill was largely centered around the provisions that would have over-ridden individual rights guaranteed by the Charter of Rights and Freedoms and the Alberta Bill of Rights by denying these individuals their right to go to court.

At this time the Alberta Government has announced its intention and taken some steps to set up a "settlement board" to whom victims could bring their case for settlement without having to go through the formal court system. Because this board is still in its formative phases and has not heard any cases, there was no one to interview who had actual experience with this board. Nevertheless, some interviewees did express feelings about this board.

5.2 Description of Study

Twenty survivors of abuse as children while in an Alberta institution were interviewed. Eighteen of the individuals reported being abused while resident at the Provincial Training School in Red Deer, one at Alberta Hospital (Edmonton), and one at the Cormack Center in Edmonton. Most of the victims have been sterilized; most also reported other forms of abuse. All of the interviewees were living as independent adults, none were under any form of guardianship. Some of the other forms of abuse alleged by these interviewees and others involved in the case include wrongful incarceration, physical abuse, sexual abuse, use as research subjects without informed consent, forced labor without compensation or without adequate compensation, educational and physical neglect, emotional abuse, and dehumanization. While some have alleged that they experienced many of these forms of abuse, others indicated only one or a few. Because we did not ask detailed questions about the abuse suffered, it is impossible to know how many of the individuals who we interviewed experienced each category of abuse.

All but one of the individuals had filed litigation with the court system. The one individual who has not filed a suit has consulted with a lawyer and will likely file suit in the near future. Only one of the interviewees has had her case presented at court. Seven of the subjects were known to the interviewer or referred to him by other victims of abuse.

Lawyers from two firms who are representing the victims in suits against the government referred the other 13 interviewees. The lawyers gave support to the participation of their clients on a voluntary basis.

Subjects who lived in the Edmonton area were given the opportunity of being interviewed either over the phone or at a place of their choice. Eight were interviewed in their homes and eight over the telephone. The four remaining individuals who lived more than 100 kilometers from Edmonton were interviewed over the phone. All of the interviews were carried out by Dr. Peter Calder a Chartered Psychologist and University Professor who works for the J.P. Das Developmental Disabilities Center at the University of Alberta.

5.3 Nature of the Interviews

After an initial description of the study and receiving consent to participate the interviews were carried out. Written notes were taken upon completion of the interview. The notes were read back to the interviewees who were given the opportunity to delete or add anything that they wished. A few added comments or elaborated on an issue. While the focus of the interview was not on the interviewees personal experience with institutional abuse many did relate some of their experiences of being abused.

While the interviewer had a standard protocol to follow most of the questions were not relevant to the Alberta situation as only one individual had been to trial. The comments

made by the victims were based more on their views of the process leading up to trial. In Alberta there hasn't been a public inquiry, police investigation, formal mediation, criminal suit, or criminal compensation so those areas of the protocol were not addressed in detail.

The only part of the protocol that appeared to be relevant to the Alberta situation was that dealing with the civil suit and for most of the interviewees the pre court aspects of the civil suit. Their ratings of aspects of the civil suit are really only on the early stages of the suit except for the one individual who successfully sued the government.

It was clear to the interviewer that all of those interviewed were able to express their views well. As individuals they varied considerably in their ability to put forth their ideas; many seemingly being hampered by the relatively low level of education received while at the Provincial Training School. For many the concept of legal reform is rather complex but all could talk in concrete terms about their own personal experiences. Seemingly all could give creditable testimony in court

Following are some of the themes that the interviewer has been made aware of in conducting the interviews and reviewing his notes. Issues were restricted to what might relate to the carrying out of legal action. Each of the themes was given a somewhat arbitrary descriptive title. The typed version of the notes can be found in Appendix A. As the interviewees were told that only the information will be forwarded, the identifying consent forms will be kept at the J.P. Das Developmental Disabilities Center

It is noted that the ratings of the judicial system are somewhat questionable as individuals have yet to go to court. Individuals tend to be highly positive about their lawyers and very negative about court and government delays; This results on balance with a neutral rating. None have reached a settlement so they are not in a position to judge the outcome of the court proceedings.

5.4 Themes

Need for exemplary case

All of the interviewees contacted or were contacted by their lawyers after the Muir trial. This trial was well publicized in Alberta and Ms. Muir personally encouraged others to sue. Her actions and the failure of the government to come to an out of court settlement appears to have brought on many other suits. Without Ms. Muir's trial and the publicity around it many of these cases are likely not to have been brought to court.

Altruistic Motivation

No interviewee appeared to be motivated primarily for financial reward. Most appear to want justice, for the government to admit that they have done wrong and that they shouldn't have been abused and institutionalized. They appear to be crying out for recognition and normalization. They want justice. They appear to realize that money alone

will not heal the wounds. This predominance of feeling that having one's day in court is more important than the actual settlement may be in part due to the fact that these interviewees have chosen to go to court rather than settle out of court.

Delays

All but one of the interviewees was upset by the delays in coming to a settlement. They lay the blame primarily on the government, although some see the court as allowing the government to keep doing this. Most of the plaintiffs are living on some sort of welfare and badly need the money. Some said that the government has already admitted guilt and they should at least pay an advance on the final settlement.

Support and Counselling

Although many said they didn't seek or need professional counselling it should have been made available to them. Some pointed to the stresses of the upcoming trial and the reoccurring flashbacks and nightmares as old once buried memories surface. Some felt that if the government really cared they would offer free counselling to those who needed it.

Some called for the establishment of a peer support group. Some cited the listening of mental health workers as helping them to take action. They couldn't do it without someone to talk to and give them support.

Reliving Old Trauma

Some interviewees acknowledged that entering into litigation had stirred up old feelings and memories about their abuse. For them, the on-going litigation appears to make it difficult to go on with their lives and relegate their abuse to the past. In spite of this negative aspect of the litigation, however, none indicated that they regretted taking part in the litigation, and some implied that the process of standing up for their rights might have therapeutic effects.

Distrust of Government

Most feel that the government can't be trusted. They give evidence of past lying, using loopholes, incessant delays, Bill 26 and the setup of the compensation panel to illustrate their point. I suspect that even a large financial settlement will do little to rebuild the trust.

Distrust of Compensation Board

Although the Government has only started to develop its compensation board and none of the interviewees have direct experience with it, several expressed distrust of the board. They feel that the board has been created largely as a means of subverting and undermining the civil litigation. The distrust of this Board seems to largely be connected to general distrust of the government, but also has been connected with two more specific factors. First, since the government originally tried to use legislation to take away the rights of these individuals to go to court and force them to board-determined settlements, many interviewees see this as another attempt to accomplish the same goal. Second, since most of these individuals were sterilized against their will or without their knowledge by the order

of another appointed board (The Alberta Eugenics Board), they do not have faith in another appointed board to protect them, now.

Lack of Understanding of the Court System

The interviewees appeared to have a most rudimentary understanding of the court system. Some see it as part of government and expect it to serve the government's interest. They appreciate the letters and progress reports from their lawyers. They see any delay as a sign of a government that doesn't care and a court system that isn't working. They see the government spending huge amounts of money on their lawyers that would be better spent helping victims. They seem to like the monthly progress meetings with their lawyers although the meetings frustrate them

Pleased with Lawyers

All interviewed appeared to be pleased with the ways in which their lawyers were handling their case. They appreciate the steps the lawyers take to keep them informed.

Police Should Have Helped

While these interviewees were involved in civil rather than criminal legal proceedings, some indicated that police were aware of some of the abuse and failed to take significant action to help. For example, some indicated that they told police about beatings and other abuse after being picked up for escaping from the institution. Nevertheless, the police returned them without investigating the abuse although it was clearly criminal in nature.

Abusers should have Faced Criminal Prosecution

In addition to the civil action, those who actually committed abuse should have faced criminal prosecution.

Feelings of Fear and Powerlessness Lasted after Institutionalization

Even after leaving the institution and knowing that they had been abused, many residents continued to fear or feel powerless to redress the wrongs that had been committed against them. While the interviewees were not clear about the reasons for these feelings, they described long periods of institutionalization in which every aspect of their lives was controlled by strict discipline and any attempt to defy it was crushed. It seems likely that anyone socialized into such a reality would feel powerless to challenge it, even after the direct controls had been eliminated.

Wrong for Me versus Wrong for Anyone

Some of the interviewees indicated that no one should be treated like they were (e.g., sterilized against their will, institutionalized). Others seem to feel that such treatment might be acceptable for some one who was truly "retarded," but wrong for them since they were not really "retarded."

Institutional Cover-up

Some indicated that the institution took action to cover up abuse problems such as beating someone for complaining to the police.

Open up institutions

Public has to know what is taking place in them. Regular visits and regular inspections by trained outsiders should be done without notice. Mail and other communications among residents and outsiders should not be censored.

Get rid of large institutions. Establish group homes, although even they have to be inspected and monitored.

Trained Staff

Hire staff with proper training and credentials.

Staff Screening and Supervision

Get rid of abusive and neglectful staff, and exercise more care and screening in hiring new staff.

Better Training and Education of Residents

Train them for the real world.

Kinder and Caring

Pay kids for work done. Make more serious efforts to stop abuse.

In summary, 20 individuals shared with a interviewer their views with how they have been treated by the legal system and some of their recommendations for reform. There were numerous clear themes that evolved through the interviews.

APPENDIX TWO

LITERATURE REVIEW

“REVIEW OF THE NEEDS OF VICTIMS OF INSTITUTIONAL ABUSE”

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1.0 INTRODUCTION

This document is offered as part of a study of institutional child abuse in Canada. This study is being conducted by the Institute for Human Resource Development (IHRD) under contract with the Law Commission of Canada. The study has as its primary purpose to "...review the needs of victims of institutional child abuse and the outcomes they seek from processes of redress." This literature review is conducted in support of the study.

This document is organized into six sections: an introduction; background and overview of institutional child abuse; needs of survivors, families and communities; description and analysis of approaches; new and emerging approaches; and conclusion. It does not attempt to be exhaustive, but is primarily concerned with framing the issues that relate to the specific research questions of the review. A separate report, including a literature review, is being conducted by another consultant for the Law Commission of Canada and provides an inventory of cases of institutional child abuse in Canada. Also, issues specifically related to abuse of aboriginal children in residential schools, among the most horrifying examples of institutional child abuse evidenced in Canada, are being explored by another consultant group and therefore are not addressed in detail. Similarly, the international experience, while touched upon in this document, is being reviewed extensively elsewhere and is also not addressed in detail. Information on offender issues, while touched upon in some areas of the text, were also not specifically sought or represented in this document.

2.0 BACKGROUND / OVERVIEW OF INSTITUTIONAL CHILD ABUSE

2.1 Child Abuse in Canada

Rix Rogers (1995), speaking from his experience as special advisor to the Minister of Health and Welfare on Child Sexual Abuse in Canada, states that the environment in which we live is unable to admit that we, as society, do not care for our children to the extent that we say we do. Rogers states that society distrusts and ignores the needs and concerns of children. He lists several characteristics of the environment: a more punitive attitude toward young offenders; victim blaming in court proceedings; active movements to discredit children's testimony in court; the absence of ethical codes in the cross examination and intimidation of children in courts and; more concern for the rights of the accused than for the rights of victims (P 6-7).

According to Rogers (1988), there has been an increase in public awareness of child sexual abuse in Canada. However, he cautions the heightened awareness of society does not on its own ensure that the care and nurturing of these children will be more adequate.

As Patricia Begin (1996) notes, it is very difficult to determine the extent of child abuse in Canada. She indicates the number of unreported cases is thought to far out-weigh the number of reported incidences (p.3). Based on his national Canadian research, Rogers (1995) estimates that more than one in four females (28%) and more than one in seven

males (16%) are the victims of child sexual abuse. He further indicates that institutional abuse occurs with a frequency twice that of intra familial child abuse.

2.2 Dynamics of Child Abuse

Finkelhor (1988) reports four major trauma- causing dynamics of child sexual abuse which occur between the victim and the offender: betrayal of trust; powerlessness; stigmatization and; traumatic sexualization.

There is a general consensus within the literature on child sexual abuse that no child is immune to the threat of such abuse. A 1990 Summary Report of the Sexual Advisory to the Minister of National Health and Welfare on Child Sexual Abuse in Canada entitled Reaching for Solutions states that more than 95% of the abusers are male and the majority of the victims are female while children ages 7 to 16 are more at risk for victimization.

In her book, *Healing the Incest Wound: Adult Survivors in Therapy*, Christine Courtois (1998) makes reference to “the pattern of occurrence in child sexual abuse” (p. 28). There are five phases to this pattern: the engagement phase; the sexual interaction phase; the secrecy phase; the disclosure phase; and often the suppression phase (p 28)

An individual takes advantage of their position of power during the engagement phase. The abuser often knows and is able to access the child freely. Children who appear to be vulnerable are usually chosen by abusers. It is often the case that the victim is seduced into performing particular sexual acts rather than being forced by the abuser. During the sexual interaction phase the severity of the abuse usually increases. Phase number three, the secrecy phase is an approach used by the abuser to ensure the abuse will continue while remaining uncovered. Courtois refers to two types of disclosure within phase four. External disclosure is not planned and can occur accidentally, for example through the witness of a third party, sexual infection or pregnancy, or purposefully which, in almost all cases, occurs by the child. During the suppression stage the disclosed experiences of the child are often ignored or minimized. The child is pressured or forced to suppress the information by those who are unable to deal with the feelings associated with the disclosure of sexual abuse.

According to Rix Rogers, in his article *Victimization and its Impact* (1994), the long term impact of child sexual abuse on the adult is extensive. Rogers refers to a number of “adjustment problems” (p. 2) experienced by the victim during the months, perhaps years, after the disclosure. This list includes:

- * feelings of anger, fear and anxiety
- * depression
- * somatic complaints
- * sexually inappropriate behaviour

- * self-destructive behaviour
- * feelings of isolation and stigma
- * poor self-esteem
- * problems in forming relationships
- * substance abuse and
- * sexual maladjustment p. 2

This list is not exhaustive. Rogers (1994) states that “there is a high correlation between child abuse victimization and eating disorders, sleeping disorders, dissociative and multiple personality disorders, chronic health problems, cognitive or learning disorders and behavioural difficulties” (p. 3). The severity of the problems experienced by the victim is usually intensified if the abuser is a trusted care-giver.

In her article, *Limitation Issues in Civil Sexual Assault: Overcoming Barriers to Civil Redress*, Nicole Tellier, a Toronto Lawyer, notes that experiences faced by child abuse victims can be so severe that the implications of these experiences may not surface until years after the abuse.

‘The Report of the Archdiocesan Commission of Enquiry into the Sexual Abuse of Children by Members of the Clergy’ (1990) states that “although long-term effects may not be obvious in some victims’ lives, in the majority of cases the trauma of the sexual abuse will have a dramatic and lasting impact on their functioning. It persists like an invisible disease that saps the energy and distorts the victims perception, robbing him of the capacity to realize the fullness of his being” (p. 119)

The list of long-term effects of child sexual abuse given within ‘The Report of the Archdiocesan Commission of Enquiry into the Sexual Abuse of Children by Members of the Clergy’ is specific to male victims. However, it is comparable to the long-term effects provided by Rix Rogers. Some effects not discussed by Rogers but referred to by the report of the Archdiocesan Commission are a negative self concept, headaches, nausea, prostitution, feelings of powerlessness and problems with responsibility and self control.

The impact of institutional abuse reaches beyond the realm of the individual who was abused. The individual’s family as well as the community must also deal with its repercussions. The Report of the Archdiocesan “observes that the families of victims are affected at four different levels:

1. Personally: parent tends to be hard on themselves.
2. With their family relationships: parents find it difficult to deal with their child’s personal feelings about the abusive experience.
3. As members of local communities: effects of the abuse enters the lives of other close family members.

4. As members of the church community: if the abuse took place in a religious institution, the family may feel betrayed by the entire institution. (p. 122)

2.3 Nature and Extent of Institutional Child Abuse

Out-of-home care of children is provided to between 300,000- 500,00 children in the U.S. (Nunno and Motz, 1988). We found no clear statistics pertaining to children in out-of-home care in Canada. Tracking of out-of-home care in Canada is a provincial responsibility, and national statistics are difficult to estimate (Rogers, 1995).

Children come into care of the state from a variety of backgrounds that tend to make them vulnerable (delinquency, handicapped, emotionally disturbed, socially deprived, or victims of family abuse) (Gil, 1979). According to one researcher, approximately half of the children entering institutional settings have experienced prior abuse (Kline, 1982).

The levels of care in residential environments range from temporary shelters to long-term treatment facilities, secure correction institutions, and foster and group homes. These facilities serve a wide range of children and have varying goals and objectives. Some children have been placed by the judicial system in the care and custody of the state because of adjudications of child abuse and/or neglect, others have been placed because of violent or aggressive behaviour in their communities, and still others have been placed by their families or communities in order to ensure the necessary levels of care and treatment (Powers, Mooney & Nunno, 1990, p. 82).

Rindfleisch and Rabb (1984), conducted a national (U.S.) survey of child welfare institutions to examine the extent of the problem of institutional mistreatment. The rates of abuse were seen to be twice those evidenced in families, and further, only one in five of these instances of mistreatment were reported to proper authorities.

Between 1982 and 1994, in North America, 400 Catholic Priests were "reported for molesting children" and an estimated "400 million dollars has been paid by the church to resolve these cases" (Page, p. 1). Page also notes that reports of institutional abuse are increasing.

Several public examples of institutional abuse in Canada have been uncovered over the past decade or so. Many of them are characterized by long periods when the abuse was covered up despite suspicions and reports. The names of Mt. Cashel, Grandview, Kinsclear, Jericho Hill and others, as well as the spectre of abuse within aboriginal residential schools, have brought the issue of institutional abuse into the everyday parlance of Canadians. These cases encompass virtually every type of institution designed for troubled, neglected, or abused children (i.e. orphanages; child welfare residences; youth corrections centres; residential programs for persons with physical, psychiatric, medical disabilities) (Bessner, 1998).

The pervasive nature of institutional abuse is evident when considering the extensive inventory of institutions at which children have been abused compiled by Ronda Bessner (work in progress 1998), for the Law Commission of Canada. Approximately thirty cases have been profiled to date, most surfacing in the past ten years. Most every region of the country has experienced at least one major abuse scandal in the last decade, involving an institution designed to serve children.

Furthermore, not only is it evident that institutional child abuse is widespread across different institutions, but also it has been shown to have been committed by a range of perpetrators within specific institutions. David Day (1994) in his article, *Power and Vainglory*, discussed a list of perpetrators identified by victims which exceeded direct caregivers to include lay persons working at the orphanage, visitors, volunteers, and other residents (p.9).

Despite these indications, there has been relatively little research done on institutional child abuse compared with familial child abuse. Thomas (1982) feels that the reason little attention has been given to the problem of institutional child abuse is that society has been under the impression that children who are being placed in institutions will receive the care that was denied to them in the environment of the previous caregiver. He asserts that society tends to blame families for mistreatment of children, and discounts the possibility of abuse in institutions designed for their well-being.

2.4 Defining Institutional Abuse

The concept of institutional abuse as a social problem was first put forth by David Gil (1975). There are inadequate “definitions and guidelines for what constitutes abuse and the absence of clearly defined public policy” (Rabb & Rindfleisch, p. 85). As a result inadequate reporting of incidences of abuse occurs (Kerness et al., 1983).

Eliana Gil (1982) identified three distinct forms of institutional child abuse”: Physical, sexual or emotional abuse; Program abuse; and System abuse. The first forms of abuse are the most researched and well known to society, however, the second and third forms are specific to institutional abuse and less attention has been paid to them. “Program abuse occurs when programs operate below accepted service standards or rely upon harsh and unfair techniques to modify behaviour” (p. 83). System abuse encompasses the abuse that occurs within the entire child care system. Example of system abuses that take place are “misplacement and misdiagnosis, prolonged treatment and unnecessary removal from home due to inadequate assessment resources”(p.84)”.

Most literature on institutional abuse focus primarily on “bricks and mortar” structures where children live away from their parents. There is some attention paid to foster care, and abuse by clergy that is non-residential in nature, and the concept has been expanded

by some to take in issues such as school bullying and ritual abuse (interview with doctoral candidate Suzanne Ottenheimer, on her research in institutional child abuse, July 3, 1998).

2.5 Factors Giving Rise to Institutional Abuse

There are several characteristics of institutional settings, as well as societal factors which contribute to the victimization of children. Causal factors of institutional child abuse are described as rooted in segregation of residents from the general population, workers' lack of training, and challenges put forth by the residents (Mc Lelland, 1986; Rendflesch and Rabb, 1984).

The Report of the Archdiocesan Commission in St. John's (1990) points out three major factors that contribute to the institutional victimization of children. First, misinformation and lack of information is seen as prevalent amongst the public regarding the dynamics of child sexual abuse, resulting in myths such as perpetrators of child abuse being strangers to their victims. As a result, people have difficulty thinking of esteemed social figures as abusers and tend toward blaming the victim. Second, the general society is hesitant to deal with or discuss issues related to sexuality. This reluctance prevents acknowledgement of sexual needs, inhibits children from satisfying need for knowledge about sexuality and creates feelings of guilt and shame regarding sexual desire or curiosity. These factors discourage disclosure of victimization due to its sexual connotations. Third, views of professionals in organizations regarding victims are seen to contribute to a lack of protection of children in institutions. Society has not afforded adequate emphasis to institutional abuse due to lack of education and experience, and an uneasiness with the issue.

Another factor which contributes to victimization of children in institutions relates to the characteristics of a multiple victim sex offender. The observations and recommendations from a study by Child and Youth Mental Health Services, British Columbia (1994) cited similarities across a population of 30 multiple victim offenders in British Columbia. It indicated that the offenders were well acquainted with victims, most being male. Offenders started the abusive acts and maintained them through the use of "coercion, deception, bribes, threats, punishments, and other forms of cruelty" (p.6). They imposed conformity and inhibited disclosure. The offenders presented a front of community commitment and dedication to helping children. Most offenders were in a position of power and trust in their communities and some used this position to access records which would enable them to identify children who are vulnerable. Some also centred their victimization around communities of vulnerable people.

Similarly, Crossmaker (1991) noted that sexual offenders "are motivated primarily for a need for power and control(p.202)." She cited that offenders target individuals they believe are less likely to object or to disclose the abuse. As a result, individuals with disabilities are more likely to be targeted by such predators . In fact, several factors were identified by

Marcellina Mian which may make certain children more vulnerable to abuse in institutions. She discussed issues of gender, age, family background, parent-child relationship, peer relations, developmental challenges, learning or behaviour problems, history of abuse, self-esteem and submissiveness (p. 2). Considering that children who reside in institutions often enter as a result of disability, behavioural/emotional problems or previous abuse, they are therefore particularly vulnerable to abusers who tend to seek out such arrangements to have access to victims (Powers, Mooney, Nunno, 1990, p.88).

According to Blatt (1985) staff members of institutions find that these vulnerable children, who often end up being the subjects of institutional abuse, are “more often reported as assaultive, suicidal, violent, and dangerous, and more in need of one-on-one supervision”.

The employees of any residential setting are under tremendous stress (Sundram, 1986). This stress level is heightened when the working conditions for such employees are less than adequate. Complaints of these workers include “poor salaries, meager benefits, long working hours and undesirable schedules” (McLellan, 1986). Employers often send conflicting messages to employees about their expectations (Durkin, 1982). Stress is a major factor frequently cited as contributing to the abuse of children within familial and institutional contexts (Blatt and Brown, 1986, Shaughnessey, 1984). Poor planning and unclear expectations have been identified as risk factors for abuse in institutions (Mercer, 1982, Grayson, 1988).

Significantly, the employees in residential settings serving children are, “generally poorly trained, inadequately screened and hired with little attention to their educational or social backgrounds. Newly hired staff are thrown into work and forced to carry out the duties of full-time staff without adequate training and orientation.” (Powers, Mooney and Nunno, 1990).

2.6 Competing Interests

In many instances, the handling of institutional abuse reflects a greater interest in the needs of the institution, or its staff, as opposed to the rights and interests of the child (Durkin, 1982, Horowitz and Davidson, 1984). In fact, attempts by staff to report abuse or wrongdoing in institutions can result in adverse action against the “whistle blower”. As a result of historically turning a blind eye to this abuse, minimal action has been taken to improve the conditions of many institutions (Rabb & Rindfleisch, 1985).

“Since a specific incident of abuse by an individual worker in an institutional setting is often the result of many circumstances within the institution, accusations of child abuse against an individual are commonly viewed as attacks on the entire institution. The resistance to such reports, therefore, tend to be strong, and the institutions which would welcome them tend to be those that are not likely to have high rates of abuse. Institutions’ responses to such external attack may include reactions similar to those manifested in families identified

or accused of abuse: denial, cover-up action or defensive behaviour. The motivations for “avoiding” the problem are also similar. The accused will fear punishment or reprisal, want to protect reputations and careers, try to cover the deed to serve the long term needs of the social unit, and be unwilling to acknowledge the presence of internal factors that lead to child abuse. Whatever the powerful forces that evoke abusive behaviour, professional training and understanding do not assure the taking of prompt, positive and appropriate action.” (Durkin, 1982)

2.7 Delay Between Occurrence and Reports of Institutional Abuse

The fear and feelings of powerlessness experienced by victims of child sexual abuse are cited as reasons why victims may not report the abuse until months or even years after its occurrence. Tellier (1994) provides an extensive list of reasons for this delay:

1. Victims have often been subjected to years of conditioning by their perpetrators to remain silent about the abusive relationship.
2. If a victim attempts to disclose the abuse and this disclosure is met with family or outside pressure, the pressure to remain silent is reinforced.
3. As a result of the abuse and any outside reaction to it, victims develop deep mistrust of authority figures.
4. In order to survive psychologically, victims actively engage in ways to repress, forget, minimize or deny the realities of their molestation.
5. Victims often feel guilty about the abuse and therefore do not identify the perpetrator as the wrongdoer. p.6

“The pressure to keep quiet or to accept blame for this unmentionable abomination has reinforced the trauma itself. For many adult survivors, disclosure is blocked by feelings of alienation, guilt, badness, inadequacy, ‘craziness’ and helplessness. This pattern of silence often persists into adulthood, as well as into therapy” (Courtois, p.130).

While the above sources address the reasons why adults who suffered abuse as children disclose later in life as opposed to disclosing while the abuse was occurring, there are many documented instances of childhood disclosures of abuse by children residing in institutions. In Ronda Bessner’s work in progress(1998), there are several examples of children making complaints to officials such as school Superintendents, other staff members and Community Service Departments. In these cases the children’s complaints were rarely documented or recorded, and reaction was not in defence of the interests of the children involved. The issue of systemic cover-up, as discussed in section 2.6, is particularly relevant in these instances.

2.8 Community Response

Communities across the country have had to address the issue of institutional child abuse as a result of the proliferation of cases coming into the public awareness. The following example may not be fully representative, but demonstrates features common anecdotally in other such cases.

A community case study discussed in *Multiple Victim Child Sexual Abuse: The Impact on Communities and Implications for Intervention Planning* (1994) is an example of a community's response to revelations of abuse. This was a study of a small community of 2000 in the interior of British Columbia. Members of this community were not prepared for the impact of disclosure of child abuse by a respected high school principal. In general, the community's response was, at first, denial then anger and hostility followed by over-reaction. The offender had entered the community about year prior to the disclosure. His efforts to improve the learning environment by bettering the school programs were greatly acknowledged. "Before school, during school and after school, he was constantly organizing activities for the children" (p. 8). Once the trust of the students and community was obtained by the offender, instances of abuse started to occur. The initial response to the disclosure by the community was denial that this individual could be responsible for such atrocities to children. Many community members tried to minimize the experiences of the children. Once there was a certain level of acceptance of the abuse community members responded with anger toward the perpetrator. Anger was followed by overreaction to the point where the community became very suspicious of each other which, often times, would lead to mistaken reports of abuse.

3.0 NEEDS AND INTERESTS OF SURVIVORS, FAMILY AND THE COMMUNITY

According to Roger Tucker (*Civil Liability for Sexual Assault in an Institutional Setting*, section VII, pg. 17) the most frequent concerns voiced by victims once they have disclosed include;

1. The need for counselling for victims and their families;
2. The need for public education so that other children will not be abused;
3. Some sort of acknowledgement to the victim that a wrong has been done.

Many victims view an apology as a vital part of addressing their concerns. They seek a voluntary acknowledgement as opposed to a criminal sanction or a damage award mandatorily imposed on that person or institution by a third party (Tucker, 1994).

The Report of the Archdiocesan states that victims, families as well as communities “need support and services for the trauma they have gone through and to understand what has happened” (p 127).

Services needed by all:

- need for support and understanding
- something must be done to terminate current victimization
- improve identification of victims
- hasten their entry into treatment
- decrease the impact of the abuse and improve the quality of institutional responses to victims seeking help (Report of the Archdiocesan, pp.127-128)

Specific needs of victims:

- need to be treated with sensitivity and respect
- need a forum where they can disclose their secret and lessen feelings of isolation as victims
- treatment needed by men may be different than that needed by women
- they need the atmosphere of the services to be one of trust, with a sensitive non-judging approach
- services must be comprehensive ranging from crisis intervention to long term follow-up
- victims also want the development of preventative services to educate children and youth about sexuality and normative behaviour
- to ensure the beginning of the healing process, victims may need intervention that involves listening to and understanding their special needs
- they may need medical assistance (ie. Tests for sexually transmitted diseases)
- they will need support and help to deal with various agencies and courts

(Report of the Archdiocesan, pp. 128-129)

Specific needs of families:

- needs for services that deliver crisis intervention and follow-up services
- present crisis intervention services expanded
- programs that respond quickly to families as they enter the disclosure and reporting stage of abuse

- there needs to be a clear message to families that they are not responsible for the crisis and there must be clear validation that the families feelings of anger, loss, confusion and doubt are a normal response to crisis

(Report of the Archdiocesan, p.129)

Specific needs of the community:

- the strengthening of community ties
- a need for public awareness and family life education
- community needs to be informed of its legal responsibilities to report any suspected forms of child abuse
- community should be aware of the legal protection available to victims and informants
- community must also be aware of the full range of services that are available to deal with child sexual abuse

(Report of the Archdiocesan, pp.129-130)

4.0 DESCRIPTION AND ANALYSIS OF APPROACHES

In this section , we will discuss issues related to prevention and early intervention in cases of institutional child abuse. Further, there will be an exploration of the traditional redress options.

4.1 Prevention

A healthy institutional environment is dependent upon high levels of trust amongst staff members as well as between staff members and residents. A trusting and safe environment will encourage children to be caring and trusting of others Docherty, (1989).

To ensure quality care and the safety of children in residential care, Docherty recommends some strategies that will help in the prevention of institutional abuse. These strategies include an institution recognizing that certain children may benefit more than others from the programs the organization has to offer and that the knowledge and skills of the staff need to meet the needs of the children. Staff must be effectively supervised while working with children. The high stress level of such a position on staff must be recognized by providing staff with sufficient time off giving them time to restore the energy needed to work in such a stressful environment. To reduce the possibility of institutional abuse, Docherty also suggests the development of a proficient system of communication for staff who are involved with the children as well as reducing the number of children per worker enabling the worker to be more involved with the individual needs of the child under their care.

In his article *Defending the Claim: Guidelines for Institutional Defendants* (1994), S. John Page also makes some suggestions of measures that institutions can take to prevent or reduce the risk of abuse of children within the institution.

1. A screening mechanism in the hiring of persons who will have direct contact with potential victims.
2. On-going inspection of the institutions physical lay-out and operations to identify situations where there is a risk of an employer or volunteer being alone in an unsupervised area with a vulnerable person.
3. A written protocol requiring reporting and investigation of all evidence and allegations of sexual abuse made on reasonable grounds.
4. An educational and training program which ensures that staff are able to identify situations where abuse may occur and are able to follow appropriate steps by way of the follow-up to any identified situations. Pp. 18-20

One preventative measure discussed frequently is the screening process used when hiring individuals to work in an institutional setting. This process consists of a thorough check of previous employment references, criminal records and child abuse registries as well as extra interviewing. However, as Robert Bloom (1994) suggests, these processes can have little practical value when trying to avoid hiring potential offenders. When a potential employer checks a persons previous employment reference the referee is only obliged to verify information such as dates of employment, salary and job description. Any information provided by the referee that goes beyond these basic facts could have legal implications for the referee. Also, there are several problems with criminal record checks. "Juvenile records are, of course, closed. Adult arrest records are almost impossible to access because police usually do not check across jurisdictions. Indictment records are inaccessible" (p. 5). There are a number of circumstances; which are highly unlikely to be met; that are dependent upon each other in order for an individual to be listed in the child abuse registries. Additional interviewing is also of little value when trying to screen out inappropriate candidates because the individuals who would be considered highly qualified and possess a sound understanding of children possess many of the same characteristics of an abuser seeking employment in an institution where there is access to children (Pp. 5-7).

Prevention and risk management practices are best focused on those activities under the agencies control:

- * clearly articulated policies
- * appropriate clients
- * solid treatment program

- * well trained and well supervised staff
- * high staff morale
- * low staff turnover

(Robert Bloom, Institutional Child Sexual Abuse, 1994, p. 7)

Wells, 1995, suggests prevention of abuse in religious settings needs to be developed in five areas: education for the general public and vulnerable groups; education for clergy; education for administrators; better use of screening; and better supervision.

4.2 Early Identification and Intervention

Mian (1994), Health and Welfare Canada (1989) and Alberta Family and Social Services (1990) all agree that there are numerous indicators that disclose that a child was or is being abused or neglected. Abuse, according to Alberta and Family Social Services, “can mean actively hurting a child or depriving the child of affection and acceptance” while neglect “means failing to take proper care of a child” (p. 5). Both definitions encompass emotional, physical and sexual forms of abuse as well as make individuals accountable if they knowingly do not prevent a child from being abused. Although signs of physical abuse are rare evidence can surface that would indicate maltreatment, some physical evidence may be:

- * Torn, stained or bloody clothing
- * Pain or itching of genital area or throat, difficulty going to the bathroom or swallowing
- * Bruises, bleeding or swelling of genital, rectal or anal areas
- * vaginal odour or discharge

More subtle indicators include:

- * display unusual interest in sexual matters
- * use language and make drawings that are sexually explicit
- * fantasize excessively
- * show fear of closed spaces
- * resist undressing or diaper changing
- * exhibit seductive behaviour

(Protocols for Handling Child Abuse and Neglect in Day Care Services, p. 8)

Other signs suggesting abuse of any form include anxiousness, depression, few friends within peer group, dramatic mood swings and fear of physical contact (Protocols for Handling Child Abuse and Neglect in Day Care Services, p. 6).

According to Mary Wells (Fair and Effective Procedures for Institutional Response to Sexual Abuse Complaints, 1994), the first Canadian protocols and policies which addressed the issue of child sexual abuse emerged in the early 1980's in the metro Toronto area. These procedures aimed at establishing a coordinated approach from the agencies involved. This approach formed the basis for models developed in other parts of the country.

Wells also states that in institutions, policies and procedures to respond to child abuse were first developed in the school setting. Policies guiding out-of-home care facilities and church run facilities did not evolve until after public attention was drawn to disclosures of abuse at Mount Cashel orphanage in St. John's Newfoundland. Such protocols have advanced since then in a way similar to that of coordinated community responses to child sexual abuse in the early 1980's.

In Well's opinion, based on reviewing and closely overseeing use of many such protocols there is no clear research at this time on what encompasses 'best practices' in this developing field. The author noted however some consistent themes in the area:

- definitions- it is important to distinguish between sexual abuse, harassment, and misconduct.
- structures of response- organizations must create policy which will meet the basic requirements of natural justice, at the same time as being sufficiently responsive to the disclosed issue. Clarifying who should be involved and how the matter will be handled is critical to the outcome .
- response to complaints- investigation and advocacy need to be separated. Assistance should be provided to all victims.
- response to accused person-separate out support role from investigative role.
- rehabilitation of offender- set clear guidelines and follow them closely. (Pp. 5-20)

A study by Child Youth and Mental Health Services, British Columbia Ministry of Health entitled Multiple victim Child Sexual Abuse: The Impact on Communities and Implications for Intervention Planning prepared a list of recommendations which refer to a number of 'successful Interventions'. This list includes: Schools as focal points for interventions, inter-agency teams: ongoing, integrated systems of community support and education, supporting and empowering frontline staff, community outreach and community planning, preparation and education (Pp.10-11).

Considering that institutions exist to care for and nurture children who are in need, when there have been disclosures and accusations of child abuse by staff members within an institution, according to Robert Bloom (When Staff Members Sexually Abuse Children in Residential Care, 1994, pg 133-144), the primary concern of the institution should be to protect the victim of the abuse as well as the other children within the institution. The process of caring for and supporting the children can be interfered with at times because of the many tensions that arise between staff members and residents once the abuse is unveiled. The needs of the individual who allegedly abused are secondary while concerns about the reputation of the institution come in last. In Bloom's article he offers practical suggestions on how to manage all three responsibilities, to the child, staff and the institution (p.133).

Protecting the child:

- believe it can happen
- take allegations seriously
- suspend the employee with pay during the initial investigation
- reach out to the child's family
- act to cut off retribution by staff members or peers
- flood the child with support

Supporting the staff:

- allow the alleged abuser to tell his or her story in the same manner and by using the same interviewing techniques used with the child
- treat the alleged abuser with respect and dignity
- explain the suspension as meeting the agency's primary duty to assure the safety of the child
- maintain the alleged abuser's wage and benefit status until the time that the abuser may have to be discharged
- explain the alleged abuser's due process rights and indicate a willingness to help the person to use them
- convene on all residential staff meeting of care workers, therapists, teachers, administrators, supervisors, and the support staff
- prepare the staff to deal with the anticipated behaviour and feelings of the children
- keep the staff fully informed as events happen, but keep the focus on supporting children and getting on with the treatment program

Maintaining the organization:

- fight the compulsion to deny, cover-up and defend
- inform the shareholders
- have one clearly visible, accessible, senior manager in charge of managing the process
- be prepared for legal action
- be prepared for a trial in the media
- seek institutional factors that could enable the behaviour to take place

4.3 Traditional Redress Options

Putting forth a point of view common to those advocating for reform of the justice system in terms of its handling of institutional child abuse cases, Tucker states, “ The problems inherent in public inquiry, criminal and civil processes, do not relate to the goodwill or qualifications of the institutions and persons involved. The problems arise from the nature of the processes themselves.”

Nicholas Bala, as quoted in Day, 1994, offers, “ Our legal and social system failed our children, initially by allowing them to become victims. And, when cases of sexual abuse have been dealt with by the legal system, children have too often been the victims of “secondary trauma”, produced by their mistreatment in that system.” p.1.

Criminal Justice System

The **criminal justice process** is one that is by its nature adversarial. It operates in a manner and produces a result that is not intended to address the needs of the victim. Simply put, the victim is essentially a witness to a crime, which happened to occur to them (Tucker, 1994).

The personal benefits of victims appearing in court are questionable. As Tucker (1994) states;

“ There has been some comment that the victims feel some sense of vindication when a conviction is registered. From my personal experience, this is true only in the short term; however, most victims have little actual say in the conduct of the case and little tangible benefit from the result. In the end, the victim feels disempowered and reabused. “

Several authors note the trauma associated with court appearances for victims of abuse generally (Berliner, 1985; Lloyd, 1980; Ginkowski, 1986). Munson (1989) posits that appearing in court can interfere with the healing process and resolution of personal issues, as well as adding additional stresses which the survivor must endure. Such processes also contribute to the revictimization of the adult survivor by putting the victim on trial. (Rogers, 1995 *Victimization and its Impact*, p. 5). Morris, (1994), bluntly notes that “the adversarial process does not lend itself to sensitive questioning by a sympathetic interrogator”. Lloyd (1980) believes the difficulties are not so much systemic but a matter of individual training and sensitivity of those involved. The very nature of many court proceedings is lengthy. This can be problematic for an adult victim of child abuse in terms of the initiation of the healing process.(IHRD, 1992)

Factors working against criminal prosecution of charges of institutional child abuse include:

1. The difficulties in identifying potential accused persons due to the lapse of time and the fact that these incidences were experienced by children.
2. The trivial nature of some of the complaints.
3. The inability to recollect the level of detail that is usually required in a criminal prosecution, including the identity of the accused, the possible times of occurrence, the details of the occurrences themselves and possible witness to the events.
4. The fact that prosecutions must be made in accordance with the law as it was at the time of the alleged offences occurring.
5. Unavailability of the potentially accused. Some potential abused are deceased.

(Sir Joseph Bernier Federal Day School: Turquetil Hall Investigation report, 1994, Pp. 12-13).

Victim advocates have asserted the needs of survivors, and there have been modifications in how courts handle criminal complaints involving sexual abuse in the past decade in Canada. There have been increases in services to victims in many provinces, and victims can provide greater input through statements at sentencing and parole (Rogers, 1995). There were 30 recommendations concerning changes to the justice system in its handling of child sexual abuse, made in Roger’s Summary Report as Special Advisor to the Minister of Health and Welfare on Child Sexual Abuse in Canada (1990). These include: that victims should not be forced to delay treatment pending the outcome of a criminal trial; that ways to utilize videotapes and closed- circuit television be explored through model programs; that laws change to allow for counsel to represent the victim’s interests in criminal proceedings; that the physical structures of courts accommodate the needs of victims; that judges receive pertinent training; and that a study be completed encouraging an ethical code for lawyers dealing with institutional child abuse.

The police role in investigating institutional child abuse has been looked at in depth over the past decade. Increasingly, police departments have trained officers and specialized units to deal with abuse complaints. This is seen as critical to ensure victims receive appropriate and sensitive services (Rogers, 1990)

Public inquiry

There have been a number of public inquiries related to abuse in institutions over the past decade (e.g. Mt. Cashel, Nova Scotia Schools for Boy and Girls, Kingsclear). These inquiries have focused community attention on issues of institutional child abuse of large proportions. They have linked specific abuses to larger issues of systemic denial and cover-up, and have allowed for an important examination of these complex and regrettable situations.

However, from the point of view of the victims themselves, the benefits of the manner in which such inquiries are conducted have been questioned. Tucker (1994) specifically lists the potential disadvantages of public inquiries.

These include:

1. The process can take years to complete, especially if there are a significant number of defendants. Conducting the public inquiry could consume an additional year or more. Several years into the problem there may not be any prospect of resolution.
2. There may or may not be convictions.
3. The institutions have had scant opportunity to present their version of the situation. There is no opportunity under this process to provide the institution with a realistic opportunity to display moral authority and goodwill.
4. It is usually the victims, as opposed to the perpetrators, who are compelled to testify under subpoena and relive the experience and once again feel revictimized.
5. Both victim and perpetrator, alleged or otherwise, have little control within this process causing the experience of testifying at a public inquiry to be both reabusive and disempowering to many victims. (Tucker, 1994, p. 14)

In a specific instance of institutional abuse, the Sir Joseph Bernier Federal Day School Investigation report discovered that former students of the school held mixed feelings about the public inquiry process that had taken place:

Those in favour of the public inquiry offered the following reactions:

1. An inquiry allows a public or at least a publicised airing of facts and grievances thus lending credibility to the complaints that have been raised in a less public fashion.
2. An inquiry increases the political power to compel potentially reluctant participants to take responsibility and be accountable.
3. An inquiry forms part of a more general healing process in validating the experiences of those who choose to participate in it.
4. An inquiry benefits the public generally by raising awareness of the issues and of the particular experiences of individuals. It thus plays a larger educative role.
5. An inquiry may result in recommendations that may lead to the devotion of resources, financial and human, to the difficulties suffered by former students.
6. An inquiry allows the full review of facts and circumstances such that more appropriate decisions can be made with respect to solutions

Those against a public inquiry listed the following reasons for their position:

1. An inquiry utilizes financial resources that could otherwise be put to use in more productive ways , such as providing healing resources to former students.
2. An inquiry has attendant with it a certain degree of formality and publicity that may discourage certain former students from partaking.
3. An inquiry tends to be a fact finding type of proceeding and does not necessarily provide the support for those participating regarding trauma arising from that participation. It does not help to pick up the pieces.
4. Inquiries benefit inquiry members, lawyers and consultants but provides no real and tangible benefit to former students who may choose to participate.
5. Inquiries result in reports or recommendations that get shelved.
6. Inquiries take too long and are too expensive and have no discernable result
7. We know what happened and an inquiry is not necessary to find that out.
(Sir Joseph Bernier Federal Day School: Turquetil Hall Investigation report, 1994, Pp. 22-23)

Although effusive in their praise of the kindness and support offered by the lawyers, investigators, and other staff of the Hughes Inquiry into abuse at Mt. Cashel, some of the

victims later expressed concern that there were times there were no supports available to them (IHRD, 1992).

Civil Action

“Greater knowledge about the effects of sexual abuse on individuals in recent years has heightened ‘victims’ awareness and increased the likelihood of such victims seeking to obtain financial compensation. ...victims of sexual abuse are now more likely to view the lawsuit as a method of confronting the abuse and the abuser” (S. John Page, 1994, pg. 5). He believes that survivors are motivated to stop the abuse and / or to receive financial compensation.

Felthusen (Ottawa Law Review, January 19, 1994) coined a term “therapeutic jurisprudence” to describe a civil action in sexual battery cases. The term describes a motivation of symbolically holding the perpetrator accountable, as opposed to any pecuniary goals.

Page (1994) describes two kinds of civil actions in institutional child abuse; one against the perpetrator (through assault and battery torts), and one against the institution responsible for the care of the children (through negligence or breach of fiduciary duty). Institutional negligence relates to four failures, namely: failure to screen / supervise staff ; failure to act on complaints; failure to warn families of possible danger to children; and failure to properly train staff. (p.8-10)

Perceived advantages of civil action from the perspective of survivors include:

- Provides them with a mechanism to identify abuse.
- Reestablishes the balance of power and the assignment of ‘blame’ on the defendant if civil action is successful.
- Process is symbolically important: may be the only way for a survivor to ‘stop’ the abuser.
- Process is financially important.
(Des Rosiers (1992))

On the other hand, problems experienced by victim groups with this process include:

- Energy and commitment alone may not sustain an individual victim in dealing with an institution.
- The potential liability of a collective claim makes it economically worthwhile for the institution to invest substantial funds in defending the action. The victim group will likely be marginalised with minimal economic resources.

- The consequence of sexual abuse often produces individuals who need counselling support. As they usually haven't received such support, they often do not present well in court. This disequilibrium may be perceived by victims as unfair (Roger B. Tucker, pp. 11-18).

Tellier (1994) reports there are significant barriers to civil redress for survivors of sexual assault, and that until the law is reformed to repeal limitation laws, equality guarantees for women and children remain illusory. For its part, the Grandview Survivors' Support Group (GSSG), as quoted in Vella, 1994, states that, "it recognizes that the current individual-based solutions offered by the civil justice system are inadequate responses to the multi-dimensional problem of institutional sexual abuse" (p. 1).

5.0 ALTERNATIVE / EMERGING APPROACHES

While some cases have followed a traditional path in terms of the legal process, other situations have attempted to overcome the perceived barriers within these approaches to positively addressing the needs of survivors. In this section we will focus on the Canadian experience.

Criminal Trials

In terms of criminal trials in cases of institutional abuse, the evolution of services in the past decade is generally in terms of offering victim's increased assistance to navigate the existing justice system (Tucker, 1994).

The Ontario Ministry of the Attorney General published a protocol for the development and implementation of a victim/ witness program in multi- victim multi-perpetrator prosecutions, in January of 1993. Its principles in supporting survivors through criminal proceedings include;

- When there is widespread disclosure of allegations of abuse which results in criminal proceedings, the victims will be unable to avoid the re-occurrence of the painful memories of their experiences. The needs of such victims are acute and the level of assistance must be correspondingly appropriate and adequate.
- A coordinated and collaborative approach is essential in dealing with these prosecutions. The Coordinator of a Victim / Witness Assistance Program must work closely with the police and Crown attorney in formulating a plan for services and in providing the services.
- The roles and responsibilities of the various disciplines must be clearly defined. Throughout the course of the prosecutions it is helpful to occasionally remind oneself of one's roles and responsibilities.

The Institute for Human Resource Development, in 1993, published a handbook entitled “Victim / Witness Support Services for Multiple Child Sexual Abuse Court Trials: The Mt. Cashel Experience. The underlying principles of this service included:

- That the criminal justice system as it exists does not protect the interests of victim/witnesses, and in fact, court proceedings can cause secondary trauma.
- The criminal justice system has an ethical obligation to provide services and processes that allow for the least harm to occur to victim\’s of abuse who are witnesses in court. This is especially the case when a disclosure has been prompted by police or attorneys, in a criminal investigation or public inquiry, as opposed to a victim choosing to come forward.
- Cooperative approaches that encompass the police, the crown attorney and victim/witness support services need to be put in place at the earliest point of intervention.
- Each victim / witness, although in a group of victim / witnesses, should be consulted and dealt with as an individual concerning support needs.
- The healing process of victim / witnesses does not end with the conclusion of the criminal trials.

Civil Actions

Greater levels of creativity have been evidenced in civil actions. Two instances that stand out are the Healing Package negotiated in the Grandview case and the Helpline Reconciliation Agreement.

Grandview Healing Package

The Healing Package states as one of its beliefs that society has a direct responsibility to provide the support necessary to facilitate the healing process of survivors of sexual and institutionalized abuse, especially when such abuse arises in the context of an institution caring for children.

The Grandview Survivors Support Group (GSSG) determined to enter into an alternative dispute resolution process (ADR) with the Ontario government as opposed to individual suits. The Healing Package involves several unique features at the pre-negotiation stage; an interim therapy program for the survivors; funding for the group itself ; tattoo-removal program; a 24 hour crisis-line, with staff trained by Grandview survivors.

Once these supports were in place, a facilitated process of ADR ensued, with a goal of facilitating healing. The actual agreement contains the following elements:

- An overview, complete with fundamental principles;
- a statement of definitions of abuse;
- Group benefits- available to all self-identified survivors of Grandview;
- Individual benefits- adjudicated by a woman experienced in adjudication and in dealing with survivors of abuse;
- changes in the law to allow for any sums of money to not be clawed back by the state;
- systemic remedies and policy initiatives- an ongoing monitoring program is established, to evaluate the progress of survivors on key dimensions.
- a feasibility study to establish a healing centre.

Helpline Reconciliation Agreement

In the Helpline Reconciliation Agreement, the survivors of St. Joseph's / St. John's in Ontario structured a Reconciliation Model Agreement with two orders of Christian Brothers, a training school, two Catholic archdioceses, and the government of Ontario. Its stated purpose was to, " help former students who can demonstrate they have suffered abuse, to deal with the long term effects of any such abuse and to begin a process of reconciliation with the other participants."

The agreement includes the following:

- apologies from perpetrators and other responsible parties;
- exemption of reduction of social assistance benefits against claims;
- Criminal Injuries Compensation Awards in the area of \$10,000;
- compensation for pain and suffering;
- contribution to provide additional opportunities;
- wage loss;
- counselling;
- a recorder, to document the processes and history of the survivors, in an attempt to memorialize the events and to forego a public inquiry;
- research.

In a review of this agreement, Bala (1995), describes it as a positive alternative to civil litigation for the 945 men who came forward with allegations of abuse. The early indications are positive for the participants involved, and although it is not a perfect process, Bala views it as superior to the traditional civil approach.

Other Creative Alternatives

Peterson's report on the Chesterfield Inlet School in N.W.T., offers a discussion of an alternative to conducting a public inquiry. She found draft terms of reference for a public inquiry wanting in terms of victim healing. She suggests the formation of a ***Working Consultative Group*** with a mandate to recommend financial and human resources to assist in models of therapy and healing. She cautioned against clinical approaches, leaning instead towards community processes that involved the wisdom of elders and of victims.

The proposed terms of reference for the Working Consultative Group include:

- identifying the financial commitment of the church and federal and territorial governments to the provision of healing and therapeutic services;
- identifying practical and effective models of provision of therapy and healing;
- identifying appropriate resources to assist in healing and therapy;

In several cases of institutional child abuse, ***mutual aid support groups*** have been established by survivors. They offer an opportunity to share experiences and combine resources, but perhaps most importantly they are seen as a source of empowerment (Tucker, 1994; Page, 1994). The support groups established in the Grandview and Helpline instances were essential to the ability of those situations to attempt non-traditional approaches.

In the Mt. Cashel experience, the Irish Christian Brothers contracted a local consulting group to design and administer an ***interim survivor support program***, the Mt. Cashel Survivor's Assistance Program (MSAP), which provided counseling, access to educational opportunities, and special services to the 40 survivors who laid criminal complaints. The program was designed to offer assistance to the survivors of Mt. Cashel while they awaited settlement of their civil suits. MSAP was overseen by an advisory committee, consisting of representatives of the survivors, community workers and the Brothers. About half the men attended school, many for the first time in over twenty years. Almost all men availed of some counseling assistance (IHRD, 1994). In the end, the resolution of the civil suits was not complete when the program was concluded, in 1995.

Wells (1994) describes a set of ***organizational guidelines*** within the Jesuit community designed with victim's needs in mind. These include:

- offering appropriate assistance immediately;
- link services to needs and capabilities;
- ***assist family***, as needed;

Further, Wells takes on the issue of a **formal apology**. She believes apology is "...a first step to demonstrate a community's concern for victims and a desire to remain in union with them. ...Apology that is humble empowers the victims" p. 25. She rejects the stance that apology constitutes admission of civil liability, and so therefore should be withheld until after civil matters conclude.

Wells also describes a **working collaborative relationship** between the Jesuit Order and a native community (not named). This arrangement includes funding from the Order for a Survivors Board and Advocate Committee chosen by Chief and Council;. Funds for healing conferences; therapists; and a healing centre. Its stated principles are justice and empowerment of victims.(p.21)

Community strategies are important to consider. Health and Welfare Canada, in their manual Child Sexual Abuse: Strengthening community response, refers to a model called 'Popular Education' (p.30) which suggests that a community:

1. should start with ones own experience, which is usually a crisis within the community that affects all members, and
2. deepen their understanding of child abuse and relate this understanding to the problems faced by the community (p. 30).

6.0 CONCLUSION

The literature suggests that institutional child abuse is symbolic of our society's lack of commitment to ensuring that its most vulnerable children are nurtured and protected. In the past decade, abuse scandals emanating from a wide range of institutions have surfaced, some of which go back several decades. The history of institutional abuse in this country is replete with examples of systemic neglect, denial and cover-up. Institutions, and the systems that support them, have shown a clear and chilling tendency in the past to choose the interests of the institution over the interests of children in dealing with abuse.

The lack of acknowledgement of the victims of the Williams Lake and St. Joseph's Residential School, which began as far back as the 1890's and continued for more than seventy years, despite several investigations, is breathtaking in its disregard for children, but by no means isolated in its dynamics.

The redress responses to these instances of child abuse have varied considerably in their approach and the degree to which they attempt to address the needs and interests of victims/survivors. Traditional approaches are under fire for their apparent failure to adequately address these needs and interests. In particular, the criminal justice system has been heavily criticised. The attempts to balance the needs of victims\ survivors within the

processes existing to offer redress to adults abused as children in institutions are being questioned from all sides. New strategies have been designed and implemented in an attempt to accommodate the needs and interests of survivors, in the legal system and other systems of redress. There are few indications of systemic reform in the administration of justice arising from the instances of institutional abuse, and certainly there is no general agreement of the need for such change.

Innovative responses have emerged, and preliminary information is encouraging about their use. Alternative dispute resolution techniques have been implemented in at least two major instances of institutional child abuse (Grandview, St. John's / St. Joseph's). Mutual support programs and collaborative approaches (e.g. restorative justice) have recently been utilized in a stated attempt to address concerns arising from revelations of institutional child abuse. Their use is relatively new, and their enduring character is not yet demonstrated.

Perhaps most poignant in an examination of institutional child abuse is how the lessons of yesterday's horrors remain instructive in today's context. The need to protect children, especially the most vulnerable children who do not live with their families, cannot be said with confidence to be presently assured. Further, the likelihood of meeting the needs and interests of adult survivors of institutional child abuse, in redress, are equally frail at present. The need to articulate best practices to guide future interventions is acute.

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APPENDIX THREE

LITERATURE REVIEW

FOSTER CARE: AN ALTERNATIVE TO INSTITUTIONS?

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1.0 AN OVERVIEW OF FOSTER CARE

Foster care is temporary substitute family care for children who are unable to live with their families. Children may need care due to identified issues of the child (e.g. behavioral problems) and/or the parent (e.g. inadequate care). Foster carers can be relatives, non-relatives, and therapeutic or specialist carers. The placement of a child in care can be very short-term (e.g. emergency), periodic (e.g. respite care), short-term (e.g. temporary wardship), or long-term (e.g. permanent wardship). Foster carers deal with children from birth into early adulthood, and across a variety of developmental issues.

There are several reasons why children are placed in foster care. Kendrick, (1990), states that two thirds of children who end up in care are there because their parents are unwilling or unable to care for them, while the other third are removed from their homes by the state for neglect and / or abuse of them at home. Approximately 80% of these children and youth come from poverty stricken, single mother, immigrant or native families (Kendrick, 1990, p. 10).

The primary goal of foster family care is to reunite the child with the birth family (McKenzie, 1994). The Canadian Foster Families Association (1995) also believes that reunification is primary, however, while the child/youth is in care, the role of the foster family is to provide a nurturing, healthy environment for the growing and developing child.

Foster care has been described as the “ third line of defence” in the state’s care of children (after families on their own and families with the intervention assistance of the state). Specialized institutions, which are in general decline in their use (McKenzie, 1994), are seen as the fourth, and last “line of defence”. While most child welfare organizations espouse family reunification as their goal when children come into care, the actual service delivery and outcomes suggest a state preference for foster care over less intrusive measures, often for short-term budgetary reasons (Garbarino and Long, 1992; Lindsey, 1994).

The role of foster parents has evolved considerably in the past twenty years. At one time “ kindly and well -intentioned people” were the primary competencies required and sought in selecting foster parents. The foster care provider is now expected to be an active member of a professional team (Steinhauer, 1991; Palmer, 1995; Waldcock, 1996). Mandatory training of foster parents exists in almost all regions of Canada (IHRD, 1997).

2.0 GENERAL IMPACTS OF PLACEMENT IN FOSTER CARE

Sally Palmer, in her book *Maintaining Family Ties* (1995) describes the impact of placement in foster care on a child's identity formation, self-esteem and stability of self-concept. Palmer suggests that when a child's identity development is interrupted with placement into foster care, there are several consequences. First, the child is taken from the only framework known to them. The development of the child's personal history comes to an abrupt end. This lack of transition can greatly affect the success of the placement. The child or young person also loses "the opportunity for a continuing experience through which they can evaluate their parents' lifestyle and values" (p. 38). To cope with this change, the young person may be likely to "duplicate destructive family patterns" (p. 38). The third problem associated with the interruption of identity formulation is that the life progression of such children or youth will be fragmented making it difficult to adapt to change. Older children who have been assuming adult responsibilities within the family lose this familiar identifying role once they are placed into care. As well, the identity of a child is also threatened when they are removed from their cultural or ethnic group. There is a loss of cultural continuity (pp. 37-40).

Palmer (1995) also addresses the negative impact of placement on a child or youth's self-esteem. Regardless of the many problems faced by children while living with their birth families, the child often feels rejected by the birth family when placed in care. These feelings of rejection are further complicated by the negativity sometimes expressed by others towards the child's birth family. Often times the child will interpret this negativity toward the family as including themselves, making it difficult for them to believe that they will be accepted by foster parents. Many of the children in care are from lower socioeconomic situations. At an age when all children have the tendency to compare themselves to others, this comparison is magnified by such circumstances. A child's competence is also challenged by being placed in care at a time when they are experiencing a great amount of personal change. Much energy is needed at this time in order to be successful in school and accepted by peers. This is a difficult task when much of the energy of a child in care is redirected towards external changes such as a new environment, with new values and norms (pp. 40-42).

The third effect of placement in foster care discussed by Palmer is the instability of self-concept. Children or youth in care may feel uncertain about the feelings of the biological family toward the individual in care if there is no contact between the two. This uncertainty can interfere with the child's ability to interpret the feelings of the foster carers. The difference often associated with the socioeconomic status of both biological and foster families can also affect the child's self-concept. The conflicting experiences of both environments adds to the child's confusion and creates tensions within the child. Children and youth are also affected by their perception of the foster carers feelings toward the child's biological family. If the child perceives the foster carers feelings as negative the

child may distance themselves from their biological family because of their fear of “being similarly classified” (p.43).

3.0 FOSTER CARE IN CANADA

There are about 60,000 Canadian children and youth living in out-of-home placements at any one time (Kendrick, 1990). The great majority of these children reside in foster care. As Kendrick states, “...because of mounting public awareness and increased reporting of physical and sexual abuse, and because of mandatory reporting laws for professionals, anonymous public hotlines, increased immigration, and the trend towards de-institutionalization of all but the most severely handicapped, an increasing number of young people will be placed under the authority of the child protection agencies” (p.xi). Kendrick (1990) views the foster care system as overwhelmed and in crisis, with a shortage of quality placements. He specifically cites increases of 500-1,000 percent in child sexual abuse reporting in every Canadian province in the period of 1980-1990 as resulting in increased out-of-home placements.

There are several problems faced when implementing foster family care policy and procedures. These include: an increase in the number of children needing out of home care which ultimately means an increased need for foster families to care for children in need; many children in need of out-of-home care have experienced severe abuse and neglect and / or have special health needs; difficulty in recruiting qualified foster parents. There is also growing concern about some of the problems that exist within the foster care system. Some of these problems include abuse within foster care, culturally and racially appropriate homes, problems associated with working with both foster and birth families and the need to reduce the number of placements experienced by the child (Brad McKenzie, p. 1-2, 1994).

Although foster care is meant to be temporary with the child eventually returning to its birth family, this is not always the case. Many foster children tend to ‘drift’ from foster home to foster home for extended periods of time. This ‘drifting’ is often the result of the child returning home too soon and then being sent to another foster home, or the birth family not receiving the appropriate help while the child is in care. Some children enter the foster care system because they were inappropriately removed from their homes (Brad McKenzie, p. 3, 1994).

One tragic case in foster care in this country which has influenced the thinking in the field, if not the general practice, is that of Richard Cardinal, an aboriginal child who died while in the care of the state in Canada.

Richard Cardinal was a 4 year old Metis child in Alberta when he was first placed in the care of the state, as a result of neglect. He was separated from his siblings, and sent to a

foster home. Over the next fourteen years, Richard was placed in 17 foster homes, had 25 social workers, and saw numerous mental health professionals. At aged 18, after several prior attempts, Richard hanged himself, at age 18, in 1984. His last set of foster parents fought successfully for a complete investigation of Richard's life and death (described in Kendrick, 1990).

There was a general acceptance that the death of Richard Cardinal was in great part the responsibility of a failed child welfare and foster care system. A review of case records found no casework plan, no expectations for improved care, nothing which addressed Richard's future stability (Thomlinson 1984). However, there was also a sense among leading authors that " it is by no means untypical of child welfare practice in Alberta. He was not the only ward to kill himself that year (there were 15 in all); he was not the only ward to suffer multiple placements; and he was not the only aboriginal child in care(37% of all children in care were aboriginal in comparison to their 3% proportion of the total Alberta population) "(Badgely, 1985). Perhaps most striking in this instance is that a review completed in 1983, one year before Richard's death, noted that government had failed to act on repeated, related recommendations in the operations of its child welfare system, going back as far as 1948 (Cavanaugh, 1983).

The National Commission on Family Foster Care, in summing up the foster care situation, explains that:

...the current child welfare system is not designed to serve the most troubled population of children and families in the history of our country. It is built on century-old premises that are no longer valid: (1) that children needing care are primarily dependant and neglected and can be helped through love alone; (2) that there are sufficient numbers of families with wage earning fathers and at-home-mothers willing and able to donate their time and money to "fix" these children by the age of 18; and (3) that caseworkers have the time and skill to supervise foster home placements (CWLA, 1991, p.3).

4.0 ABUSE IN FOSTER CARE

Children and youth are often taken from their homes to protect them from the abuse and neglect of their biological parents. In fact, it is estimated that as many as one out of every two children in care have suffered abuse prior to placement out of home (Kline, 1982). Society makes the assumption that these children, with guidance from the state, will be placed into caring and stable homes where they will be given the opportunity to thrive. However, this is not always the case. In actual fact, the prevalence of abuse in foster care;

" ..is substantially higher than that of children in their own homes. While definitional and generalizational problems require caution when considering

survey data, it is reasonable to conclude that children are as likely, if not more likely, to be abused in foster care than they are in their own homes...It is also likely that with increased awareness and scrutiny of the problem, the reported incidence will rise (Dawson, 1985, p. 4).

Besharov (1977), noted that "...all too often children are victims of maltreatment in the very institutions which are operated to care for and serve their needs". In 1986 in the US, a House Select Committee on Children and Youth found "deplorable" conditions in out of home child care, which had resulted in class action lawsuits for neglect against eight states. Child death due to maltreatment was cited as two to three times as likely in foster care as in a family home (NCCA, 1986). Abuse itself is perhaps as much as twice as likely to occur in foster care as in a family home (Reindfish and Rabb, 1984, Benedict, Zuravin, et al, 1996).

Brian Raychaba, in his book Pain...lots of pain: Family Violence and Abuse in the Lives of Young People in Care (1993), provides a detailed analysis of the factors associated with abuse in foster care in Canada.

Raychaba reports that a victim of abuse while in care is often the victim of past abuse. "Generally speaking, abused youth in care lack experience with consistent, stable, non-exploitative and non-abusive forms of parenting. Their family background have usually lacked routine, structure and appropriate limits on behaviour" (p. 76). Raychaba also states that children who are at risk of abuse tend to have multiple placements; are permanent, long-term or crown wards and have little contact with their biological family; and have emotional and behavioural problems such as being defiant, sexually provocative and aggressive. Children who are handicapped, disabled or have special needs are also at higher risk of abuse while in care. Often, the disability or special need may prevent the child from proper communication which is another indicator of a child at risk. Children or youth are also vulnerable if they are not aware of their legal rights; have already experienced many major life events such as the beginning or ending of treatment or court proceedings; and have a history of living in secure settings such as young offender centres where many youths do not report abuse because they fear they will not be taken seriously. (pp. 76-77).

Foster parents who offend usually do so under the following circumstances: when they have little or no training in how to deal with difficult situations which may arise while caring for a foster child; they lack the interest or commitment involved in fostering; when they have high expectations of a child entering their family and immediately 'fitting in'; when they punish their own biological children and deem it appropriate; when there is a history of abuse that has been ignored for one or both of the foster parents. Foster parents with marital problems or who live in relative isolation where it is difficult to have contact with a caseworker are also at a higher risk of offending (Raychaba, pp. 77-78).

Other risk factors identified in abuse in foster care include:

- use of emergency placements;
- overloading foster families with too many children;
- poor matching of needs of child and foster carers;
- a lack of monitoring and training of foster carers.

(McKelvey and Stevens, 1994).

5.0 PREVENTION OF ABUSE IN FOSTER CARE

Cavara and Ogren (1983) identified several factors in the prevention of abuse in foster care. These include:

- extensive screening of foster parents;
- close contact by social workers with foster families;
- avoid high-risk placements;
- agencies should not overload foster families;
- no corporal punishment;
- mandatory training of both foster parents;
- clear and complete information given foster parents about the children in their care;
- stress on the part of foster parents;
- create an expectation on foster parents to ask for help when they need it;
- the social worker needs to be the child's advocate, and spend time with that child away from the foster parents;
- social workers need training in abuse by foster parents;
- social workers should make unannounced visits to the foster home;
- there should be exit interviews with all children when they leave any foster care placement, conducted by social workers;
- there needs to be a clear and serious response to all abuse allegations, which should include license review and / or criminal charges.

Raychaba (1993) expresses little optimism concerning the level of prevention efforts in place in foster care in this country. Some of his concerns include; youth care workers

being under-trained and under-supported; many foster parents lacking any specialized training or support; placement transiency; lack of effective monitoring, even in provinces (such as Alberta and Ontario) where new legislation exists. Raychaba quotes one youth about their experience in foster care:

“ The biggest thing about being in foster care was there was such a shortage of homes that they were willing to take anybody to be a foster parent or they wouldn’t shut down the homes they knew were bad because they just couldn’t afford to put kids in hotels. They just have no place to put them. It was like the foster parents could decide what it is that they would put up with and what they wouldn’t, and what they would allow the kids in their care to do and what they wouldn’t. I Don’t know. It was like there was no standards at all.” (P.81)

6.0 RESPONSES TO ABUSE IN FOSTER CARE

“The goal of a child protective intervention strategy in residential maltreatment is the safety of the child.” (Nunno and Motz, 1988). They suggest the examination of procedures and practice standards in four areas: reporting of abuse; investigative procedure; decision-making, and; interagency cooperation.

They recommend specialized investigative units to address these issues.

For her part, Carbino (1992), suggests implementation of ‘ constructive policy’ to address reports of abuse in foster care. In this approach, well- being of the child is balanced with agency protection. She supports investigations being internal to the foster care system, children remaining in the home awaiting the outcome of the study, and foster parents having ongoing access to the emerging findings of the investigation.

Raychaba (1993) states that the primary interventive response required is to change the generally-held belief that the child welfare system are somehow intrinsically “safer than other settings and immune from abuse” (P.100). He suggests specific responses as well, including: funding increases, post-foster care supports, education programs for youth and carers.

7.0 SUMMARY

Foster care in Canada is increasingly being utilized to fill the gap in service created by the ongoing elimination of institutions which cared for children and youth. While the child care system espouses a primary interest in family preservation and reunification, there is a

general tendency to use more intrusive and reactive measures such as foster care. This is true despite the fact that for at least a generation there has been reliable information to suggest that children in foster care are at much greater than normal risk of harm while in care.

There seems to have been a sense of relief that institutions which have been equated with great evil and harm to children, such as Mt. Cashel and Grandview, are no longer in existence. However, if one views foster care as an institution, it presents a familiar and troubling list of shortcomings. Lack of training, poor monitoring, isolation, policy gaps, lack of screening mechanisms, and lack of independent advocates are features of both the institutional and foster care settings.

The move away from large and unaccountable institutions as carers to vulnerable children and youth is generally lauded as progressive. However, the literature on the existing prime alternative, foster care, should not make anyone rest more easily about the care and well-being of these children. Undoubtedly, most foster parents are positive influences on the young people in their care. But it is clear that foster care in Canada is far from a panacea for children in need of out-of-home placement, and its risks have not been uniformly addressed. This issue appears to be one of a lack of will, not knowledge. For this reason, foster care holds the incredible and terrifying likelihood to represent the next battleground in the fight to eradicate institutional abuse.

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APPENDIX FOUR

**LAW COMMISSION OF CANADA
REVIEW OF INSTITUTIONAL CHILD ABUSE**

**VICTIMS/SURVIVORS INTERVIEW
PROTOCOL/INSTRUMENTS**

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SELECTION CRITERIA FOR SURVIVOR PARTICIPANTS

Selection will be done by “ friendly contacts” (persons known to the survivor sample) in consultation with IHRD. In guiding their approach to selection , the following issues need to be considered.

- Safety- the friendly contact will exclude persons known to be in general distress at the time of the interviews or for whom there is a clear risk that being interviewed will be detrimental. We will avoid people with no supports of any kind in place.
- Gender- we will have a representative balance of participants based on the overall proportions in the institution.
- Ethnicity- we will attempt to represent ethnic backgrounds present in the institution.
- Processes undertaken- in each institution, there are people who have been involved in all legal components and others who have had less or no involvement. We intend to include a range of these experiences.
- Inclusiveness of known opinions- because there have been other opportunities for survivors to speak publicly about the matters under study, we intend for the friendly sources to be inclusive of these known views.
- geography- we understand that for people willing to be interviewed by phone, there will be no barrier to interviewing survivors who live in other parts of Canada or elsewhere. Where such agreement exists, we intend to interview some proportion of survivors from a variety of locations. If consent to participate is primarily for in person interviews, these interviews, by fiscal necessity, will be concentrated in larger centres and / or where more survivors reside.

CONSENT FORM - INTERVIEW WITH SURVIVORS

I, _____, a survivor of _____ institution, agree to talk with _____, a researcher hired by the Institute for Human Resource Development (IHRD), about the legal aspects of my institutional abuse. I understand that IHRD has been hired by the Law Commission of Canada to speak with survivors of institutional abuse in Canada to get their views on how they were treated in the legal aspects related to their abuse. I understand IHRD will write a report for the LCC, based on interviews with survivors across Canada.

This interview will focus on the following;

- what legal aspects I was involved in (police investigation, public inquiry, criminal trial, Crimes Compensation, civil suit, reconciliation/ mediation, other).
- what my needs and expectations were of how I would be treated in these legal aspects.
- my opinion about whether my needs were considered in the legal aspects, and about the outcomes of the legal aspects.
- my views about how these legal aspects can respond better respond to the needs of survivors.
- how to prevent institutional child abuse.

I know this interview will not focus on the details of my abuse, but on the legal response. I know I am not expected or encouraged to give details about my abuse.

I understand that my comments will be held confidential, and that my name will not be put on this questionnaire. I know that the only exception to keeping my responses private is if I pass on information about a person at risk of suicide or homicide, or if a child under 16 is at risk of harm.

I know the questionnaire will go to IHRD with the others interviewed, to be analyzed. I understand that a general summary report on the survivor findings from the institution I attended will be made available to me, where all identifying details are kept private. I further understand I can opt out of having any information I share included in such a summary.

I understand I can stop this interview at any time, or refuse to answer any questions. I understand the consent I give is in place until January 1, 1998, allowing time for the completion of the project.

I have been given an opportunity to ask questions about the study, and am prepared to participate in the study.

Signature _____

Witness _____

Date _____

SURVIVOR'S QUESTIONNAIRE - USING THE QUESTIONNAIRE

Introduction

This document is intended for those selected to be interviewers. It offers a description of the intent of each question and any strategies we believe might be helpful. In the end, it is a guide and interviewers must exercise their own judgement as to the best way to proceed with the interviews. The interviews are structured to allow us to get and compare information from a sample of 120 or so survivors. Some aspects of questions will not be relevant to some cases. We will discuss these individually with each researcher.

Pre-Interview Issues

Obtaining Consent

We have created a consent form for use with the questionnaire. The interviewers will take a few minutes to explain the project, and make sure the person knows what the interview is about. ***Specific attention will be paid to the issue of supports in place for the survivor after the interview.*** The participant will then be asked to sign the consent form before the interview begins.

Honorarium

Each survivor will be paid a small honorarium to participate. The interview, upon the signing of the consent form, will pay the participant for the interview before starting the questions.

The Interview

Question #1

This question is intended to outline the options the survivor was involved in, their expectations and their needs.

Under ***why they got involved and what their needs were*** the responses could include:

- no choice
- wanted to end abuse
- justice
- revenge

- now older and safe to confront the past
- need to talk about it

Under **expectations**, responses could include:

Police Investigation

- not to be believed
- to be blamed for my victimization
- nothing would be done- no charges

Criminal Trial

- to be put on trial
- for my abuser to get away with the abuse

Civil Suit

- money
- an apology

Public Inquiry

- for the truth to come out.
- for people to know what we went through.
- *personal privacy*

Crimes Compensation

- some acknowledgment of my abuse.
- some money
- less hassle than a law suit.

Reconciliation /Mediation

- an apology
- control over the process
- survivors as a recognized group in the process
- an outcome that is positive
- emphasis on healing as opposed to winning
- finding a way to work with the offending parties

Question #2

This question attempts to get at key issues in the resolution of the legal aspects involved. Survivors are asked two primary questions: were their needs taken into account in the legal aspect, and how do they feel about the outcome of the legal aspect. Their responses will

come in two forms; an open-ended response, with prompts (prompts are described below); and a five point satisfaction scale.

Prompts for Needs

- refer to needs identified in question #1

Prompt for Outcome

- refer to expectations in question #1

While the more important information is the open-ended responses, **the rating scale** is important in this case for the following reasons;

- there will be multiple interviewers, making comparisons between responses more difficult to assess. If two survivors say they didn't like the criminal justice system, rating their satisfaction using a scale will capture the degree to which they feel this way. Without this measure, we will not be able to easily distinguish between a person who mildly disapproved and one who greatly disapproved.
- this will help identify those issues of greater importance to survivors. For example a person may not be satisfied with their treatment under any process, but may feel more strongly about one legal aspect as opposed to another, which the ratings scale will help identify.
- the issue of interviewer bias is addressed in this approach. If an interviewer has a bias in their reporting of open-ended answers, this will be offset by the scale. Also, the reliability between several interviewers, most of whom IHRD has not worked with before, will likely be suspect, and the scale lowers the concerns related to this questionable reliability.

Interviewers are instructed to ask the open-ended question first, tracking the person's responses. Only after this has been done will the interviewer ask the participant to rate the response on the scale. This will continue through each question where the scale is used.

Question #3

In this question, participants will be asked to offer comments on why they chose not to be involved in legal aspects. We expect that in those cases where people were not involved, the most common answer will be that it was not an option. **There will be a percentage of people who will be chosen because they were not involved in any legal aspects, to see if their views are different from other survivors.** We are uncertain what their responses might be, but a possible list includes;

- wanted to keep my situation private
- did not want to be involved with the police

- afraid my family would find out about my abuse
- don't trust the legal system
- didn't think anything positive would come from involvement
- didn't care about legal system options
- not well enough (physically or emotionally) to participate
- didn't think I would get the support I would need to go through it.

Question # 4

This question emphasizes prevention. The prompts are included.

Question # 5

again self-explanatory, with prompts built in.

Question # 6

This question is open-ended and there are no prompts.

Questions #7, 8,9

These are self-explanatory.

INTERVIEWERS' GUIDE

Introduction

The Institute for Human Resource Development (IHRD) is reviewing child abuse in institutions in Canada. ***The purpose of the review is to identify the ways in which institutional abuse is dealt with in Canada, and how survivors' / victims' needs might be best met in these situations, particularly as it relates to the legal approach.*** As part of our study, we are interviewing people who were victims of child abuse in institutions. Our sample of institutions is six primary cases, including the one for which you are interviewing. Our review is sponsored by the Law Commission of Canada (LCC). The Law Commission of Canada is a group separate from government and is in place to work with Canadians in reviewing the law to make sure it is working well and is just. (A copy of its Strategic Agenda is attached to give you an idea of its goal and approach).

The Institute for Human Resource Development (IHRD) is a private firm located in St. John's Newfoundland. IHRD has provided consulting services in the areas of family violence and child sexual abuse throughout its nine years in operation. This includes designing and delivering two support programs for the men of Mt. Cashel, providing individual and group therapy for survivors of child abuse, training professionals in addressing child abuse on a provincial and national level, and authoring two nationally distributed documents and one provincial training guide. IHRD is committed to "assisting individuals, families, work groups and organizations in reaching their full potential. IHRD's two principals are Rick Browning and Rick Morris. Rick Morris is the project manager for this project. He is working with a central team in St. John's, as well as the interviewers for each case study. This team includes: Colleen Hanrahan, (MSW, LLB) a principal of the Institute for the Advancement of Public Policy, who has extensive policy development experience in child welfare and was a commissioner of Nfld's Criminal Injuries Compensation Board; Anne Morris (MA, Doctoral candidate), a senior researcher with considerable experience in issues of child abuse; and Mike Eagen, a principal with GossGilroy Incorporated, a national management consulting firm, who has extensive experience in the methodology of major national projects and studies.

The General Approach

In order to find out about the needs and expectations of survivors in the legal aspects of institutional child abuse, we are selecting six primary sites in which to interview 20 survivors each. A questionnaire is attached, and is described below. In addition to these interviews, we will be gathering information from others who were involved in the primary cases (i.e. lawyers, support people, families). We also have identified five secondary sites. We will be interviewing some survivors and others, although in lesser numbers, in these cases. ***Our primary task, as we understand it, is to give voice to survivors of institutional child abuse about their experiences once their abuse became public and ways and***

means to address institutional child abuse in a way that better meets the needs of survivors.

Selection

Survivors will be selected through consultation with key contacts identified in each instance. We will be selecting as randomly as possible, with some selection criteria coming into play. These include:

- because all interviews are planned to be in-person, we need to choose survivors who are congregated in larger centres, due to time, logistical and budgetary considerations.
- we intend to de-select on the basis of any concern on the part of our key contacts that an interview could prove overly traumatic or difficult for a survivor, or that they have no supports, or that they are currently experiencing major problems which might hinder their ability to participate, or more importantly, their safety.
- we will make special efforts to select persons from visible minorities, aboriginal people, and also persons who did not participate in any formal procedures in each instance. A selection strategy will be created for each case study.

The process of selection will occur as follows:

- we will identify a key contact in each instance.
- the key contact will make first approach to the survivors, explaining the project and testing their willingness to participate. We will work closely with these individuals so that survivors know that this interview is **not** intended to be a telling of their entire abuse story, but rather their experiences once the abuse became public knowledge.
- IHRD will confirm this interest by telephone, and arrange an interview.
- an informed consent process will occur at the time of the interview and consent form will be signed. (Should persons indicate a preference for telephone interview, we will attempt to find other ways to obtain written consent, or will use a scripted telephone verbal consent).

The Interview

All interviewers chosen will be persons who have experience with child abuse. We will attempt to work with local resources to identify possible candidates. We will contract with interviewers based on their abilities in working with survivors as a first priority, with less emphasis on their research background.

Interviewers are given a questionnaire to follow (attached). They will offer a copy of the questionnaire to participants to read if they wish. The questionnaire is a combination of open, closed, and ordinal ranking responses. We believe that the questionnaire can be used in a sensitive manner, which is respectful of participants. A question by question description is attached.

Participants will be given a full explanation of the interview at the outset. We hope to let survivors know of our areas of interest, which are the responses to their abuse once it became public, and ways to make these responses better. ***The interview is not intended to catalogue the abuse suffered by each individual.*** However, we know that for some people it will be difficult to discuss responses without also going into some detail about their lives. IHRD also believes, though, that we have a responsibility to inform participants as clearly as possible about the information we will be using, so that they do not reveal more of their lives than necessary. ***In practice, we expect that some people will need to tell their stories, and we will make the time to hear them.***

The Analysis

Each completed questionnaire will be returned to IHRD. In addition, each interviewer will be asked to complete a short document identifying the themes emerging from their interviews and any other observations. IHRD's research team in St. John's will complete any overall analysis.

The Report

IHRD is writing a formal report to the Law Commission of Canada, in the fall of 1998. In turn, LCC is writing a report to the federal minister of Justice, by the spring of 1999.

INFORMATION FOR VICTIMS/SURVIVORS

We are reviewing child abuse in institutions in Canada. The purpose of the review is to identify the ways in which institutional abuse is dealt with in Canada, and how survivors' / victims' needs might be best met in these situations, particularly as it relates to the legal approach. As part of our study, we are interviewing people who were victims of child abuse in institutions. Our review is sponsored by the Law Commission of Canada (LCC). The Law Commission of Canada is separate from government. It is in place to work with Canadians in reviewing the law to make sure it is working well and is just.

You are one of several people we are interviewing in this case. All information you provide will be kept confidential. We will be preparing a formal report for the LCC, based on what we learn from our interviews. LCC is then writing a formal report to the Federal Minister of Justice based on this study and three others which are being done to address institutional child abuse in Canada (one on abuse of aboriginal children in residential schools, one that is looking at institutional child abuse cases in Canada from a legal point of view, and one on what is happening in other countries).

As a participant, you can have access to the parts of our report that include the institution you were in. How this will be done is being worked out with LCC.

The questionnaire is designed to be completed with an interviewer trained in its use. All interviewers have experience in dealing with survivors of child sexual abuse. ***This one-on-one interview will focus mostly on your experiences in how the abuse you suffered was handled once it became public, rather than on discussing the abuse itself, or the delays that kept your situation from being dealt with. While the story of what happened to you is important, our goal is to find out from you your thoughts and feelings about what happened once the situation became public.***

We understand this interview might be difficult for you, and we can take breaks or stop at any time if you wish. We expect the interview could take about 1 hour and are providing a small honorarium (amount of money) to cover your expenses and time.

QUESTIONNAIRE

NAME OF INSTITUTION: _____

Place of Interview: _____

Date (of Interview): _____

Consent signed: _____

Q1. I will be asking you some specific questions about the legal aspects of your case. We want to know about any supports that were put in place to help you as a victim of abuse.

1. Public Inquiry:

a. Were you involved in the **Public Inquiry**? 1. Yes 2. No (*go to next legal aspect*)

b. How long did the **Public Inquiry** last? (When did it begin and end?)

c. How did you get involved? What did you expect? What were your needs in the **Public Inquiry**? (*Prompts: counselling, mutual support*)

2. Criminal Trial:

a. Did a **Criminal Trial** take place involving your abuse? 1. Yes 2. No
(*go to next legal aspect*)

b. How long did the **Criminal Trial** last? (When did it begin and end?)

c. How did you get involved? What did you expect? What were your needs in the **Criminal Trial?** (Prompts: counselling, mutual support)

3. Civil Suit:

a. Were you involved in a **Civil Suit?** 1. Yes 2. No
(go to next legal aspect)

b. How long did the **Civil Suit** last? (When did it begin and end?)

c. How did you get involved? What did you expect? What were your needs in the **Civil Suit?** (Prompts: counselling, mutual support)

4. Police Investigation:

a. Did a **Police Investigation** take place? 1. Yes 2. No
(go to next legal aspect)

b. Were you involved in the **Police Investigation?** (Were you interviewed?)
1. Yes 2. No
(go to next legal aspect)

c. How long did the **Police Investigation** last? (When did it begin and end?)

d. How did you get involved? What did you expect? What were your needs in the **Police Investigation?** (Prompts: counselling, mutual support)

5. Crimes Compensation:

a. Was **Crimes Compensation** available ? 1. Yes 2. No
(go to next legal aspect)

b. Were you involved in the **Crimes Compensation / Criminal Injuries Compensation?**
1. Yes 2. No (go to next legal aspect)

c. How long did the **Crimes Compensation** last? (When did it begin and end?)

d. How did you get involved? What did you expect? What were your needs in the **Crimes Compensation?** (Prompts: counselling, mutual support)

6. Reconciliation/Mediation:

a. Did **Reconciliation/Mediation** take place? 1. Yes 2. No
(go to next legal aspect)

b. Were you involved in the **Reconciliation/Mediation?** 1. Yes 2. No
(go to next legal aspect)

c. How long did the **Reconciliation/Mediation** last? (When did it begin and end?)

d. How did you get involved? What did you expect? What were your needs in the **Reconciliation/Mediation?** (Prompts: counselling, mutual support)

7. **Other: Specify** _____

(N.B. in Jericho, there were some union arbitration cases that residents got involved in...)

a. Did _____ take place? 1. Yes 2. No

b. Were you involved in the _____? 1. Yes 2. No

c. How long did the _____ last? (When did it begin and end?)

d. How did you get involved? What did you expect? What were your needs in the _____? (Prompts: counselling, mutual support)

Q2. I am going to ask your opinion of the legal aspects that you were part of, and the supports you might have received. While I would like to get your comments in your own words, I would also like you to rank the options using a five point scale.

1: very unsatisfied 2: unsatisfied 3: neutral 4: satisfied 5: very satisfied:

1. Public Inquiry

a. Comments: _____

b. Your level of satisfaction regarding consideration for the needs of victims/survivors during the Public Inquiry?

1. very unsatisfied 2. unsatisfied 3. neutral 4. satisfied 5. very satisfied

c. What was your level of satisfaction regarding the outcome of the Public Inquiry?

1. very unsatisfied 2. unsatisfied 3. neutral 4. satisfied 5. very satisfied

2. Criminal Trial

a. Comments: _____

b. Your level of satisfaction regarding consideration for the needs of victims/survivors during the Criminal Trial?

1. very unsatisfied 2. unsatisfied 3. neutral 4. satisfied 5. very satisfied

c. What was your level of satisfaction regarding the outcome of the Criminal Trial?

1. very unsatisfied 2. unsatisfied 3. neutral 4. satisfied 5. very satisfied

3. Civil Suit

a. Comments: _____

b. Your level of satisfaction regarding consideration for the needs of victims/survivors and the Civil Suit?

1. very unsatisfied 2. unsatisfied 3. neutral 4. satisfied 5. very satisfied

c. What was your level of satisfaction regarding the outcome of the Civil Suit?

1. very unsatisfied 2. unsatisfied 3. neutral 4. satisfied 5. very satisfied

4. Police Investigation

a. Comments: _____

b. Your level of satisfaction regarding consideration for the needs of victims/survivors during the Police Investigation?

1. very unsatisfied 2. unsatisfied 3. neutral 4. satisfied 5. very satisfied

c. What was your level of satisfaction regarding the outcome of the Police Investigation?

1. very unsatisfied 2. unsatisfied 3. neutral 4. satisfied 5. very satisfied

5. Crimes Compensation

a. Comments: _____

b. Your level of satisfaction regarding consideration for the needs of victims/survivors and Crimes Compensation?

1. very unsatisfied 2. unsatisfied 3. neutral 4. satisfied 5. very satisfied

c. What was your level of satisfaction regarding the outcome of the Crimes Compensation?

1. very unsatisfied 2. unsatisfied 3. neutral 4. satisfied 5. very satisfied

6. Reconciliation/Mediation Agreement

a. Comments: _____

b. Your level of satisfaction regarding consideration for the needs of victims/survivors and the Reconciliation/Mediation Agreement?

1. very unsatisfied 2. unsatisfied 3. neutral 4. satisfied 5. very satisfied

c. What was your level of satisfaction regarding the outcome of the Reconciliation/Mediation Agreement ?

1. very unsatisfied 2. unsatisfied 3. neutral 4. satisfied 5. very satisfied

7. Counselling

(N.B. please take note if by counseling participants mean victim services, clinical counseling / therapy or both).

a. Comments: _____

b. Your level of satisfaction regarding consideration for the needs of victims/survivors and the Counselling?

1. very unsatisfied 2. unsatisfied 3. neutral 4. satisfied 5. very satisfied

c. What was your level of satisfaction regarding the outcome of Counselling ?

1. very unsatisfied 2. unsatisfied 3. neutral 4. satisfied 5. very satisfied

8. Mutual Support (Survivors Helping Survivors)

- a. Comments: _____

- b. Your level of satisfaction regarding consideration for the needs of victims/survivors and mutual support?
- c. What was your level of satisfaction regarding the outcome of mutual support ?
1. very unsatisfied 2. unsatisfied 3. neutral 4. satisfied 5. very satisfied

9. Other: Specify

- a. Comments: _____

- b. Your level of satisfaction regarding consideration for the needs of victims/survivors and the _____?
- c. What was your level of satisfaction regarding the outcome of _____ ?
1. very unsatisfied 2. unsatisfied 3. neutral 4. satisfied 5. very satisfied

Q3. If you were not involved in any of the legal aspects and supports that were presented to you, please describe why not.

1.	I was not involved in the Public Inquiry because:
2.	I was not involved in the Criminal Trial because:

3. I was not involved in the **Civil Suit** because:

4. I was not involved in the **Police Investigation** because:

5. I was not involved in the **Crimes Compensation** because:

6. I was not involved in the **Reconciliation /Mediation** because:

7. I was not involved in **Counselling** because:

8. I was not involved in **Mutual Support Groups** because:

Other(specify) _____

Q4. What do you think needs to happen in institutions to prevent children being abused?

(Prompts: better trained staff, more supervision of staff, access to external supports, a safe person to turn to, other)

Q5. In your opinion, what changes, if any, are required in the legal aspects you took part in, of how institutional abuse is handled to respond better to victims/survivors of institutional abuse?

1. Public Inquiry

2. Criminal Trial

3. Civil Suit

4. Police Investigation

5. Crimes Compensation

6. Reconciliation /Mediation

Other(specify) _____

Prompts:

- *more options*
- *more sensitivity to survivor needs*
- *more involvement of the victim throughout the various legal aspects*
- *less threatening court situation*
- *support services for a longer period of time*
- *better ways of sorting out compensation*
- *other creative alternatives (ask specifically)*
- *other _____*

Q6. Do you have any overall suggestions on how your needs could have been better met in the legal aspects? What about the needs of your family (ask if not

Q7. Do you have any further comments/concerns or suggestions?

Background Information

Q7. Year of Birth 19_____

Q8. Gender 1. Male_____ 2. Female_____

Q9. Race/ethnicity

a. Are you an aboriginal person? Yes___ No___

b. Are you a person from a visible minority? Yes___ No___

APPENDIX FIVE

**LAW COMMISSION OF CANADA
REVIEW OF INSTITUTIONAL CHILD ABUSE**

KEY INFORMANT/PROFESSIONALS

INTERVIEW PROTOCOL/INSTRUMENTS

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Interview Guide For Professionals

PREAMBLE

Hello, my name is _____ of the Institute for Human Resource Development (IHRD). We are conducting a review of child abuse in institutions in Canada. The purpose of the review is to identify the ways in which institutional abuse is dealt with in Canada, and how survivors' / victims' needs might be best met in these situations, particularly as it relates to the legal approach. As part of our study, we are interviewing professionals who were in direct contact with victims of child abuse in institutions. Our review is sponsored by the Law Commission of Canada (LCC). The Law Commission of Canada is in place to work with Canadians in reviewing the law to make sure it is working well and is just.

You are one of several professionals we are interviewing in this case. All information you provide will be kept confidential. We will be preparing a formal report for the LCC, based on what we learn from our interviews. LCC is then writing a formal report to the Federal Minister of Justice based on this study and three others which are being done to address institutional child abuse in Canada (one on abuse of aboriginal children in residential schools, one that is looking at institutional child abuse cases in Canada from a legal point of view, and one on what is happening internationally).

As a participant, you can have access to the parts of our report that include the institution with which you had involvement. How this will be done is being determined with LCC.

The focus of this interview will be on the experiences of survivors after the abuse became public, rather than on discussing the abuse itself. The objective of this aspect of the study is to investigate the extent to which the needs of survivors were met or expectations satisfied. If the traditional legal systems were not responsive, why do you believe this is so? Are there alternative approaches to work within the system, or a new system, which should be considered?

We expect the interview could take about _____.

Do you have any questions about the review or what is expected of you in this interview?
Are you willing to be interviewed?

Review of Institutional Child Abuse in Canada Questionnaire for Professionals

Name of Institution under Consideration: _____

Place of Interview: _____

Date (of Interview): _____

1. In which of the following professions/systems are you involved?

1. Child Protection (if victims were wards of the state)
2. Education System
3. Health Care System
4. Justice System
5. Ombudsman/woman (child advocates)
6. Family Member
7. Community Member
8. Other Specific _____

2. Please describe the level of your involvement in the case of _____ institution.

3. What were the circumstances that led you to have contact with the survivors?

Questions\Prompts

- How the informant became professionally aware of the case
- Set the time frames (during the abuse), disclosure, trials, or other
- Place the informant with the circumstances
- Determine the point in time during which the informant acquired knowledge of the case
- What role did the informant play with the survivor/institution and/or the case?

4. How long were you involved with the case and the survivors?

1. Less than 6 months
2. Between 6 months and 1 year
3. 1 - 2 years
4. 2 - 3 years
5. More than 3 years.

5. What processes were used to address the public disclosure of abuse in the institution?

Legal Aspect	Processes used Yes or No	Involved in this phase? Yes or No	What was your involvement?	Began/Ended (time)
Police Investigation				
Public Inquiry				
Criminal Trial				
Civil Suit				
Crimes Compensation				
Reconciliation/ Mediation				
Counseling				
Mutual Support Groups				
Other _____				

6. I am going to ask your opinion of the **legal responses to the public disclosure and subsequent processes addressing the needs of survivors.**

I would also like you rank the options on a five point scale.

1: very unsatisfied, 2: unsatisfied, 3: neutral, 4: satisfied, 5: very satisfied:

Legal Aspect	Extent to which the survivors understood the processes	Extent to which the needs of survivors could be accommodated by process	Extent to which the outcome of process met the needs of the survivors
Police Investigation	1 2 3 4 5	1 2 3 4 5	1 2 3 4 5
Police Investigation Comments:			
Public Inquiry	1 2 3 4 5	1 2 3 4 5	1 2 3 4 5
Public Inquiry Comments:			
Criminal Trial	1 2 3 4 5	1 2 3 4 5	1 2 3 4 5
Criminal Trial Comments:			
Civil Suit	1 2 3 4 5	1 2 3 4 5	1 2 3 4 5
Civil Suit Comments:			
Crimes Compensation	1 2 3 4 5	1 2 3 4 5	1 2 3 4 5
Crimes Compensation Comments:			

Legal Aspect	Extent to which the survivors understood the processes	Extent to which the needs of survivors could be accommodated by process	Extent to which the outcome of process met the needs of the survivors
Reconciliation/ Mediation Agreement	1 2 3 4 5	1 2 3 4 5	1 2 3 4 5
Reconciliation/Mediation Comments:			
Counseling	1 2 3 4 5	1 2 3 4 5	1 2 3 4 5
Counseling Comments:			
Mutual Support (Survivors helping survivors)	1 2 3 4 5	1 2 3 4 5	1 2 3 4 5
Mutual Support Comments:			
Other (specify)	1 2 3 4 5	1 2 3 4 5	1 2 3 4 5
Other Comments:			

7. What do you view as the strengths and weaknesses of the processes for addressing issues of institutional abuse?

<u>Police Investigation</u> Strengths:
<u>Public Inquiry</u> Strengths:
<u>Criminal Trial</u> Strengths:
<u>Civil Suit</u> Strengths:
<u>Crimes Compensation</u> Strengths:
<u>Reconciliation /Mediation</u> Strengths:
<u>Counseling</u> Strengths:

Mutual Support Groups

Strengths:

Other _____

Strengths:

7b. How were families affected by the legal processes? Communities?

8. Do you believe that the processes which were employed held the institution accountable?

1. Yes 2. No

Please explain your answer.

9. How can the various systems respond better to victims/survivors of institutional abuse?

Prompts:

- *more options*
- *more sensitivity to survivor needs*
- *more involvement of the victim throughout the various legal aspects*
- *less threatening court situation*
- *support services for a longer period of time*
- *better ways of sorting out compensation*
- *other* _____

10. Are you aware of processes which have been used, other than the traditional legal system, to address issues of institutional abuse?

1. Unaware _____ 2. Aware _____

If so, would you be able to comment on the other process or let me know who may be able to provide information on the process?

11. Do you have any further comments or suggestions?
