



International Centre for Criminal Law
Reform and Criminal Justice Policy

Colloquium on the Impact on Dependent Children of Adult Criminal Justice Processes

Report of Proceedings

Written By:

Dr. Allan Castle

Considering the Impact on Dependent Children of Adult Criminal Justice
Processes

Colloquium on the Impact on Dependent Children of Adult Criminal Justice Processes

June 19, 2025 – Boardroom, International Centre for Criminal Law Reform & Criminal Justice Policy: Peter A. Allard School of Law, 1822 East Mall, Vancouver

Report of proceedings

Attendees

The meeting convened at 10:30 AM, with a general welcome, territorial acknowledgement and roundtable introductions, including participants attending via videoconferencing. The meeting was chaired by Dr. Allan Castle of the International Centre. Attendees included:

Rae Alcock, Manager, Native Courtworker and Counselling Association of BC

Jennifer Charlesworth, Representative for Children and Youth

Vivienne Chin, Coalition for Children of Incarcerated Parents (via video)

Justine Davidson, Legal Supervisor, BC First Nations Justice Council

Darryl Hrenyk, Ministry of Attorney General (via video)

Floriana Kennelly, Legal Counsel, Office of the Chief Judge, Provincial Court of British Columbia (observer)

Robert Lapper, KC, University of Victoria Faculty of Law, and Access to Justice Centre of Excellence

Chrystal Lattie, Elizabeth Fry Society of the Lower Mainland (via video)

Alan Markwart, Senior Advisor, Office of the Representative for Children and Youth

Brock Martland, KC, Martland & Saulnier

Doug Munro, Policy Lawyer, Law Society of BC

Suzette Narbonne, KC, Society for Children and Youth of British Columbia

Alexandra Russell, Crown Counsel, Public Prosecution Service of Canada

Ann Seymour, Crown Counsel, BC Prosecution Service

Darryl Shackelly, CEO, Native Courtworker and Counselling Association of BC

Project Team, International Centre for Criminal Law Reform & Criminal Justice Policy

Prof. Yvon Dandurand, Senior Associate (via video)

Dr. Allan Castle, Senior Associate

Johanne Blenkin, Consultant

Megan Capp, Researcher

Project Update

The ICCLR Project Team provided an update on project work and related developments in 2024-25. These included:

1. In 2024-25, project staff were successful in having a Child Impact Statement template completed and submitted to the court by defence counsel and actively considered by the sentencing Justice in a criminal trial heard in the Supreme Court of British Columbia.

Participants in the Colloquium had a preliminary discussion of this development, including the potential for feedback from the courts at a future point, and the impact of this development as an oral decision.

Project staff advised that the child impact statement prototype used in this case would be circulated to participants following the Colloquium along with the report of proceedings.

2. Project staff reviewed the recent completion of a condensed and updated document drawing on a previously compiled report – *Considering the Best Interests of the Child in Sentencing and Other Decisions Concerning Parents Facing Criminal Sanctions: An Overview for Practitioners* (ICCLR, 2023) – forming a new report, *Out of the Shadows: Considering the Impact on Dependent Children of Adult Criminal Justice Processes* (ICCLR, 2025), including discussions with the Office of the Representative for Children and Youth regarding endorsement and/or release.

In addition to abridging previous concepts, the new document provides significant updates in terms of relevant caselaw. These include several recent cases in which Canadian courts have been willing to consider the differential impact of sentences on defendants who are parents versus defendants without children, based on the expectation that a sentenced parent will find an otherwise identical sentence to be harsher, given the impact on their child. Relevant case law discussed includes *R v. Upright* (2020 ABCA); and, contra *Upright*, *R v. GG*(2023 QCCA), *R v. Habib* (ONCA 2024), and *R v. Crawford* (OSCJ 2025).

3. Project staff reviewed plans for 2025-27, contingent on current funding applications. The proposed activity would focus on two court regions in British Columbia, in which project personnel would facilitate the regular completion of Child Impact Statements, support their introduction into adult criminal proceedings where appropriate, and assess the value and impact of this information from the perspective of multiple actors (e.g. judges, clients, defence, prosecution)

The objectives of the work would be to test the viability of introducing child impact statements into criminal process in British Columbia, to raise awareness of and further normalize the practice of criminal courts considering the best interests of dependent children in their own right, and to identify any suggested improvements to the template as may be suggested by system participants.

Colloquium participants discussed the proposal, offering feedback and guidance.

Interventions on related work

Colloquium participants heard remarks from Suzette Narbonne, KC, Executive Director of the Society for Children and Youth. The discussion centred on the importance of the child's voice in legal proceedings affecting the child, emphasizing the value to children of being heard while cautioning against placing children in positions of decision-making responsibility. Were such methods to be employed in the criminal justice system – for instance, to augment the incomplete picture of child impact painted by a child impact statement – the specific implementation methods would first need further study, particularly regarding how to protect children and ensure appropriate involvement based on their age and circumstances. In addition to the voices of children themselves, other existing mechanisms, like child representation and legal counsel, may also be fruitful in some settings.

Megan Capp, a researcher with ICCLR, discussed recent work on parenting experiences of mothers in conflict with the law, including consultations done with women with lived experience. Key issues include tensions between the respective needs and preferences of the parent and the child; barriers faced while trying to navigate support; the intersection of criminal proceedings and possible family law issues; and rampant stigma faced by both mothers and their children. Canadian research has been minimal, and more focused research attention is needed through a child rights lens. Research is also needed with respect to women and bail/remand, including experiences of children during this process; the needs experienced by mothers; the importance of understanding the process through the lens of impacted children; and the complexity created by court orders where a judge is unaware of a defendant's parenting obligations.

General discussion

In the last session of the Colloquium, participants engaged in an open discussion which included:

- Implications of recent jurisprudence concerning family/child impact of sentencing in terms of (a) equal protection provisions of the Charter and (b) consideration of collateral consequences.
- Potential participation in, support for and/or feedback regarding the project team's proposed 2025-2027 Child Impact Statement Pilots.
- Questions surrounding the use of (and differences between) Child Impact Assessments versus Child Impact Statements.

Concluding remarks

Jennifer Charlesworth, Representative for Children and Youth, provided closing remarks. Noting the specific focus of the project on the criminal justice system, and distinct from her Office's own mandate, the Representative nonetheless underscored the importance of the work, thanked attendees for their participation, and encouraged the project team to move ahead in developing further practical and awareness-raising activities.

Appreciation

The organizers would like to thank all participants for their attendance and for their high-level of engagement during the discussion. In particular, thanks are due to Suzette Narbonne and Megan Capp for their presentations, to Brock Martland for his reflections, and to Marcella Chan of the International Centre for capable assistance with event logistics.

Appendix : Blank sample of Child Impact Statement (January 2025)

Purpose and use of the Child Impact Statement

This document is a statement of the known or anticipated impacts on a dependent child relating to a charge, period of remand, custodial sentence or other criminal court disposition applied to the child’s parent. This document is to be provided by the parent to the judge and to the prosecution service assigned to this criminal matter, for due consideration of the impact on the child of decisions made in criminal proceedings against the parent.

Definitions

In this document,

- “child” means a person under 18 years of age, and may be taken to mean children in the plural where applicable;
- “parent” means either a parent or a legal guardian of a dependent child;
- “dependent child” means any child for whom the parent has legal custody (full or part-time), or a child for whom the parent can demonstrate an existing pattern of financial support, including but not limited to court-ordered financial support.

Who should complete the form

This document it is to be completed by a parent facing remand in custody, custodial sentence, or other disposition of criminal court. The document should be reviewed by counsel prior to submission but should not be referred to any third party, professional or otherwise, for completion. This document is a statement by a parent, made to the best of their ability and knowledge. It is not a third-party, professional, arm’s length and/or expert assessment of child impact. It is appropriate for the parent’s lawyer to provide guidance in completing the document.

Importance of accuracy and truthfulness

This information will provide the court with facts about your child’s life, your role as a parent, and the impact on your child of you being remanded or jailed. This document may be difficult to complete as some answers may be unknown. Please only provide information that you know is true. Do not guess or speculate. The court may seek to verify some details through supporting accounts from schools, doctor’s offices, etc.

Providing factual information about yourself, your child, and prospective caregivers, and avoiding false or pejorative statements, is the key to securing the best outcome for the child.

Part A: Basic information

Parent (or legal guardian) completing this form

Full legal name: _____
Current address: _____
Date of birth: _____ Occupation: _____
Email: _____ Telephone: _____

I am the __ mother
 __ father
 __ legal guardian of

Dependent children

Child 1

Full legal name: _____
Date of birth: _____ Gender: _____ Ethnicity: _____
Living with you? __ Yes __ No
Other parent name: _____
Other parent address: _____
Other parent email: _____ Telephone: _____

Child 2

Full legal name: _____
Date of birth: _____ Gender: _____ Ethnicity: _____
Living with you? __ Yes __ No
Other parent name: __ Same as above Name: _____
Other parent address: _____
Other parent email: _____ Telephone: _____

Child 3

Full legal name: _____
Date of birth: _____ Gender: _____ Ethnicity: _____
Living with you? __ Yes __ No
Other parent name: __ Same as above Name: _____
Other parent address: _____
Other parent email: _____ Telephone: _____

[For additional children, please include on a separate sheet.]

Part B: Current circumstances of the child

1. Do you have legal custody of the child(ren)? Yes No
If other than full custody, please explain for each child.

Type answer here

2. Do your children live with you? With another parent? Alternating

3. A “primary caregiver” is a parent who has a child in their care for at least 60% of the time. Are you presently the primary caregiver for your child? Yes No
If yes, since what year? _____

4. In your own household, what percentage of overall income do you provide? _____%

5. Where does your child attend school? Please note school, location, and current grade.

Type answer here

6. Does your child have diagnosed developmental, medical, learning or other needs which require special arrangements at school or outside school? Yes No If yes, please provide details.

Type answer here

7. Has your child ever been taken into care? Yes No If yes, please provide details (which child, why this was, and dates)

Type answer here

8. If you are currently remanded, with whom is your child currently living, and where? Please add details if necessary.

Type answer here

9. Please describe your normal weekly relationship with your child. What are the main ways you interact? What does your child rely on you for?

Type answer here

10. If a judge were considering releasing you with conditions, what parts of your life with your child should the court seek to preserve and protect, in the interests of your child's development and wellbeing?

Type answer here

Part C: Impact on child of recent events and criminal proceeding

11. Was your child a direct or indirect victim of the offence you committed? Yes No
If yes, please explain.

Type answer here

12. Was your child present at the time the offence was committed? Yes No

13. Was your child present at the time of your arrest? Yes No

14. Is your child aware of your criminal case? Yes No

15. Please explain how the child has been impacted by the current criminal case, from the arrest until now. This may include how they are doing, issues about money, living arrangements, family relationships, etc.

Type answer here

16. Please explain how the child has reacted to these events.

Type answer here

17. Does your child remember you being convicted of a previous offence? Yes No
If yes, please explain.

Type answer here

18. Does your child remember you previously being remanded and/or serving a prison sentence for an earlier offence? Yes No . If yes, please explain, including length of time in jail and date of release.

Type answer here

19. Have you discussed with your child the fact that you will soon be sentenced by the court? Yes No

Type answer here

Part D: Impact of your enforced absence due to sentence/remand

20. Please describe the kind of parent you are, your connection to your child and how you contribute to your child’s wellbeing, education, safety, and development.

Type answer here

21. Please describe the child’s other parent, their connection to your child and how they contribute to your child’s wellbeing, education, safety, and development.

Type answer here

22. If necessary, could the other parent become their primary caregiver? Yes No
Explain as needed. If more than one other parent, please answer for each parent.

Type answer here

23. If you answered no to the previous question, what other options do you have as a caregiver for your child? For each person mentioned, please describe their relationship to your family, including how long your child has known that person.

Type answer here

24. Are there any legal reasons why the other parent cannot become the primary caregiver of the child? Yes No If yes, please explain.

Type answer here

25. Are there are historical issues of neglect or abuse affecting your child, whether by you, another parent, or a third party? Yes No If yes, please explain.

Type answer here

26. Do you have concerns for the safety of your child should you go to jail? Yes No
If yes, please explain. May include e.g. exposure to drug or alcohol abuse, mental health issues, neglect, or cruelty, whether or not there is a court order.

Type answer here

27. Is there a need for any kind of special protection for your child? Yes No
If so, what is the nature of the threat?

Type answer here

28. Do you already have arrangements for care of your child if you go to jail? Yes No
If yes, please explain.

Type answer here

29. Please describe the overall impact you expect for your child if you are sent to jail, with respect to the child's:

- a. Living arrangements

Type answer here

- b. Special medical or developmental care (if applicable)

Type answer here

- c. Schooling

Type answer here

- d. Community and cultural connection

Type answer here

- e. Friendships

Type answer here

- f. Family relationships

Type answer here

- g. Other activities (e.g. sport, religion, music) or other aspect of your child's life you believe the court should be aware of when deciding on remand or a custodial sentence

Type answer here

Part E: Affirmation

I make this statement affirming that it is an accurate and faithful account of the circumstances of my child with respect to my current criminal proceeding, to the best of my knowledge.

Name

Signature

Date

Witness

Signature

Date



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