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# The Role of Crown Prosecutors in Child Advocacy Centres in Canada

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## BACKGROUND

Child Advocacy Centres (CACs)<sup>1</sup> are designed to provide a coordinated response to children involved in the criminal justice system by offering a central point for services related to investigation, support, and crisis intervention. The critical aims of this coordinated response are to reduce system-induced trauma and to provide specialized, centralized services that support children through the justice process and enhance their long-term well-being. CACs were first developed in the United States (US) in the 1980s and there are currently more than 1000 American organizations.

The extant evidence supports CACs as an effective strategy for prosecuting crimes against children. US cases that proceed via a CAC, when compared with those that proceed without a CAC, tend to see increased prosecution rates (Connell, 2009), reduced time to charges (Walsh et al., 2008), and reduced costs (Shadoin et al., 2006). Further, children whose cases proceed via CACs have been found to have lower stress, and are more likely to experience medical examination and a child-friendly setting for an investigative interview (Cross, Jones, Walsh, Simone, & Kolko, 2007; Faller & Palusci, 2007; Jensen et al., 1996; Jones, Cross, Walsh, & Simone, 2007). Though there has been much less research conducted in Canada, in one six-site study, evaluations by caregivers and victims were very positive, including evidence that the CAC reduced hardships for clients – both financial and non-financial (Department of Justice Canada, 2018).

In the United States, CACs must meet 10 standards for accreditation through the National Children’s Alliance (NCA, 2017):

- 1) Multi-Disciplinary Team (MDT),
- 2) Cultural Competence and Diversity,
- 3) Forensic Interviews,
- 4) Victim Support and Advocacy,
- 5) Medical Evaluation,
- 6) Mental Health,
- 7) Case Review,
- 8) Case Tracking,
- 9) Organizational Capacity, and a
- 10) Child-Focused Setting.

The US model has been adapted in Canada, within the parameters of Canadian law, and geographical and logistical considerations. For instance, CACs in Canada typically include a MDT (with law enforcement, child protection services, mental health services, medical services, specialized forensic interviewing, and victim advocacy). However, there are other standards that are less easily adapted in some jurisdictions. For example, one of the 10 NCA standards requires a child-friendly facility and in Canada, due to vast geographical spread in some regions, virtual models have been developed as a practical solution.

The first CAC model developed in Canada was the Regina Children’s Justice Centre (RCJC) in 1993. Substantive growth in the use of CACs across Canada was assisted in 2010 when the Department of Justice Victims Fund provided funding for the creation of new CACs and there are now centres either in place or in development in most provinces and territories. Though there are many common features in CACs across Canada, there are also many differences in the approaches the centres use both within and between jurisdictions.

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<sup>1</sup> The term Child Advocacy Centre (CAC) will be used throughout this report to include both CACs and Child and Youth Advocacy Centres (CYACs).

## The role of the Crown

A central tenet of the CAC is the MDT. The NCA standards outline the required members for the MDT in the United States: law enforcement, child protective services, medical, mental health, victim advocacy, and prosecutors. The MDT approach has been shown, in several US studies, to enhance collaboration and coordination among team members, relative to non-CAC investigations (Cross et al., 2007, 2008). Of note, this team approach to investigations directly involves prosecutors in the United States, who are typically a member of the MDT (some CACs are located in district attorney offices, others in Child Protective Services or hospitals; Walsh et al., 2003). However, in the Canadian context, the role of prosecutors in CACs has been more complex.

Crown prosecutors in Canada work within the justice system, but exercise prosecutorial discretion independently from government, police, the victim, and the accused. The Crown are “Ministers of Justice,” meaning that they serve the court and the public interest, not a particular cause. Rather, they represent society as a whole and therefore must take into account fairness in the administration of justice. This requires balancing the decision to prosecute offences with the likelihood of conviction, determining whether prosecution is in the public interest, and serving justice to both the alleged victim and offender.

The independence of the Crown role applies to both in-court and out-of-court behaviour (*R. v. Boucher*, 1955; *R. v. Regan*, 2002). In *Regan*, the “Minister of Justice” concept was further clarified as comprising three critical components: objectivity, independence (including from police and defence), and lack of animus (towards the accused). However, this requisite independence must be balanced with a close working relationship with the police or investigative agency (Public Prosecution Service of Canada (PPSC) Deskbook, 2014, s 2.1). The role of the Crown includes the provision of legal advice to investigative agencies, such as direction about methods or investigative techniques for gathering admissible evidence, and identifying areas of a particular case for which additional investigation is desirable or needed (PPSC Deskbook, 2014, s.4.2.2). Crown involvement at the investigative stage is common, but such pre-charge cooperation still requires an ultimately independent assessment of the investigated case by the Crown prior to prosecution.

While the Crown in Canada may work closely with members of a CAC, including police and social workers, their role is to evaluate evidence, assess the public interest in a prosecution, and lay or review charges accordingly. Thus, despite working closely with a CAC, the Crown do not work for a CAC, but rather receive information from a CAC and evaluate that information for the possibility of prosecution. Indeed, the provision of legal advice by the Crown to investigative agencies to ensure that evidence is gathered in an admissible manner is perhaps one of the critical advantages of their involvement in a CAC. When the Crown has consistent, direct access to investigators at the CAC, expectations can be made clear to investigators and expertise can be developed. Targeted training and discussion with investigators who specialize in working with child victims and witnesses could lead to evidence being gathered in ways that better promote the ability to appropriately prosecute offences against children.

The relationship between the Crown and investigative and support agencies can differ across jurisdictions. For instance, in some provinces (British Columbia, Quebec) Crown prosecutors lay charges, whereas elsewhere in Canada, police may lay charges on their own, and prosecutors review these charges.<sup>2</sup> This difference in pre-charge screening may have an impact on both the working relationship between parties, as well as on the rate of guilty findings. For instance, according to Statistics Canada, provinces that engage in pre-charge screening have some of the highest rates of guilty findings, relative to provinces without pre-charge screening (Statistics Canada, 2017). Despite some signs that this close collaboration might decrease justice delays and contribute to more successful prosecutions, currently in Canada, there is no clear support

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<sup>2</sup> In New Brunswick, charges are laid by police after receiving advice from Crown (Standing Senate Committee on Legal and Constitutional Affairs Report. 2017. *Delaying Justice*).

for either pre-charge screening or no pre-charge screening, and calls for thorough research into the question have been made (Standing Senate Committee on Legal and Constitutional Affairs, 2017).

### Disclosure

One of the key considerations related to the Crown's involvement in CACs is the Crown obligation of disclosure. As outlined in the PPSC Deskbook (2014) and in case law, *R. v. Stinchcombe* (1991), the Crown must disclose to the defence all information that could, "reasonably be used by the accused either in meeting the case for the Crown, advancing a defence or otherwise in making a decision which may affect the conduct of the defence such as, for example, whether to call evidence" (*R. v. Egger*, 1993). The to-be-disclosed information does not necessarily have to meet standards of admissibility (*R. v. O'Connor*, 1995), but should be reliable and relevant to the case at hand.

As disclosure obligations relate to the Crown's role in a CAC, any information to which the Crown is privy becomes fodder for disclosure. Thus, if mental health, social services, or other ancillary services are discussed within the Crown's presence, the Crown is obligated to disclose any relevant information that arises to defence counsel. The Crown then, must balance exposure to prosecution-relevant evidence with the possibility of exposure to evidence that is not directly related to prosecution or defence, but for which disclosure could be required nonetheless.

### Current project

Given the legal and practical constraints of the role of the prosecutor in CACs across jurisdictions in Canada, the aim of the current project was to explore how these relationships are currently being navigated and to document the variety of approaches to the Crown/CAC relationship. There is a general lack of research on Canadian CACs (see McDonald, Scrim, & Rooney, 2013), and little is known about how the Crown are currently operating within or alongside Canadian CACs. Thus, semi-structured interviews were undertaken with Crown prosecutors who worked closely with CACs across Canada to document their experiences and perspectives.

## METHODS

Through interviews with Crown prosecutors across Canada, current CAC and Crown arrangements were explored, as well as the challenges and benefits of Crown/CAC collaborations. A semi-structured interview script was developed in collaboration with the Department of Justice Canada (see Appendix). It targeted three primary topics:

- 1) current Crown/CAC relationships,
- 2) perceptions of what may make ideal Crown/CAC relationships, and
- 3) the perceived impact of CAC implementation on children and the investigative process.

All CACs across Canada were approached and asked to identify one or more Crown prosecutors with whom they had a close relationship. All identified Crown were then contacted for potential participation. All Crown who responded to queries were interviewed either in English (n = 11) or in French (n = 4). The final sample comprised 15 Crown prosecutors who were interviewed by telephone. These interviewees had been Crown prosecutors for an average of 15.25 years (range 6-30 years), and had been working with vulnerable victims and witnesses for an average of 12.58 years (range 2-30). In addition, British Columbia provided a written summary response from the province (representing the collective experience of six CACs).

**Table 1. Number of Crown Prosecutors interviewed per jurisdiction**

	Yukon	British Columbia	Alberta	Saskatchewan	Manitoba	Ontario	Quebec	Nova Scotia	TOTAL
	1	Written response	4	2	1	2	4	1	15

Two approaches to interview coding were taken. First, responses to each question were reviewed to identify common response themes for each question. Responses for 12 interviews were then coded independently by two of the authors to obtain intercoder agreement. One of the initial coders coded the remainder of the interviews. Agreement exceeded 79% for each individual question, with overall agreement of 87%. All disagreements were resolved through discussion and consensus was reached for the remaining interviews and the written BC response. Second, themes that were not captured fully in the coding of individual questions, and those that were observed across multiple questions, were extracted to form broader themes from the interviews.

Not all questions were answered by all interviewees and not all responses were codeable, thus the number of responses reported for each question do not always sum to the total number of interviewees. For questions involving numerical data and perceptions, the written response provided by BC was most often excluded due to a lack of specificity. Finally, for cases in which multiple Crown were interviewed from a single CAC, only one response was selected for inclusion in counts of standard practices (e.g., “Is the Crown officially part of the MDT?”).

## RESULTS

In this section, Crown/CAC relationships as described by interviewees are outlined first. Next, the five broad themes that were extracted from interviewee responses are presented including, where applicable, responses to specific questions. Third, additional lessons learned from the Crown responses are identified. Finally, suggestions for future Crown/CAC relationships provided by interviewees are highlighted.

### The role of Crown Prosecutors in CACs across Canada

All Crown described a degree of involvement in the CAC, but several variations were present.

- With the exception of the Crown from Quebec, none of the interviewed Crown were officially members of the MDT. Eight Crown attended meetings held at the CAC on a regular basis (daily to monthly). Others never attended (n = 3) or attended on a case-by-case basis (n = 3).<sup>3</sup>
- Most Crown were on site at the CAC on a schedule (n = 9) and/or met frequently at the CAC on a case-by-case basis (n = 11).
- About half of interviewees used the CAC facilities for meetings with victims/witnesses (n = 5), and about half did not (n = 6).
- Several Crown provided regular training to CAC affiliated professionals (n = 6), with an additional two Crown providing *ad hoc* training. Receptiveness to training and/or advice was rated by Crown as high (M = 8.5/10, range 7-10).

<sup>3</sup> Quebec has the Multi-sectoral Agreement concerning the social and legal intervention procedure established by the Quebec government in situations involving children who are victims of sexual or physical abuse. Although this Agreement “is designed to cover interaction between the Direction of the Youth Protection, the police and the prosecutor acting on behalf of the Attorney General, as well as representatives of other institutions or bodies who may be required to take action to meet a child’s need for aid or protection”, it is not specific to Crown-CAC relationships.

- Most Crown either did not have a policy or guidelines regarding CAC relations or did not know if there was such a document. BC was the only province reported to have guidelines.<sup>4</sup>

### Pre-charge screening

BC, Quebec, and New Brunswick are officially considered to be pre-charge screening provinces in which the Crown lay charges (in comparison to other provinces in which police lay charges). However, it became apparent early in the interviews that many Crown/CAC relationships informally engaged in pre-charge screening under particular circumstances, and in Manitoba, pre-charge screening is in the process of implementation. Indeed, eight of all Crown who were interviewed for this study reported providing guidance on investigation direction and/or charges to investigators.

### Brick and mortar vs. virtual models

There are relatively few virtual models within Canada (SKY in BC and LYNX in the Yukon). Given that only one direct interview was conducted with a virtual CAC (LYNX) and the other (SKY) was captured in the written BC response, it was difficult to draw conclusions about the Crown/CAC relationships as a function of the model. Nonetheless, it was apparent that both of these virtual models were developed to serve areas across broad geographical regions. Despite the importance of being able to serve clients, these virtual models also saw significant benefits to adding a bricks and mortar facility in which services could be provided, when possible.

### Variation in models

Given the relatively few CACs in each province, an inter-provincial comparison between models was not possible. However, when the Crown discussed the evolution of their particular model, implementation seemed to be largely influenced by the particular players involved during the inception of the CAC. That is, the model for the CAC seemed to evolve to suit the particular community and people doing the work, rather than by adhering to a prescribed formula. BC is the only jurisdiction where there are guidelines developed by the BC Prosecution Service Resource Counsel Group. The guidelines reference relevant policies such as *Committee Involvement*.<sup>5</sup>

### Broad themes

All interviewees expressed strongly positive views of working with the CAC and the benefits they observed to children and children's evidence. Level of satisfaction with the Crown/CAC relationship was rated as an average of 8.1/10 (range 7-10).<sup>6</sup> The Crown enthusiastically supported CAC development and often expressed a desire for finding ways to increase their involvement in the CAC. In this section, interview responses have been categorized into five broad themes, including strengths and challenges.

#### I. CACs provide needed support for children

Interviewees consistently focused on the importance of the support provided to children through the CAC, and their belief that the CAC processes made children more comfortable and reduced trauma. All Crown reported believing that supports for children were enhanced with the CAC and that the quality of evidence was improved.

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<sup>4</sup> The guidelines document was developed by the BC Prosecution Service CYAC Resource Counsel Group to assist CACs/CYACs and Crown Counsel and other BC Prosecution Services staff members.

<sup>5</sup> Policies are available publicly on the BC government's website. The Committee Involvement Policy can be found here: <https://www2.gov.bc.ca/assets/gov/law-crime-and-justice/criminal-justice/prosecution-service/crown-counsel-policy-manual/com-2.pdf>

<sup>6</sup> This average excludes one respondent who rated satisfaction as "2" due to a desire for a closer relationship with the CAC.



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*“...for us the best benefit is that we have children who are less traumatized by the process of investigation and prosecution. And so they’re giving better evidence in court because they’re better supported through the whole process.”*

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There was also a generally expressed belief that the children’s courtroom experience was improved because of the CAC processes. This improvement was most often attributed to more specialized personnel working with the children, wrap-around services provided to the children and family, and court preparation programs.

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*“Not only their ability to testify appears to be better, but they also, how they feel when they’re done, I think is much more positive than it would be had they not gone through the programming at [CAC].”*

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The uniqueness of cases with child victims and witnesses was repeatedly noted by interviewees. The Crown often reported that the resources of the CAC allow them to focus on their own areas of expertise, as others are able to meet the needs of complainants and families that are outside the Crown’s own area of expertise.

One of the sources of support for children was the increased communication among MDT members. The enhanced communication and collaboration between the various agencies involved in investigations was discussed by the majority of Crowns as benefiting the quality of investigation, as well as the services provided to the children and families.

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*“We get to focus on what we should be doing, which is the evidence, looking at the case law and what a reasonable likelihood of conviction is. And we have other people to facilitate the well-being for the child and to give us the insight on how this child is doing so that we don’t cause further damage in the criminal process.”*

*“... the collaboration, just many minds put to a problem is so much better than individual, and just having different agencies that have different things to bring to the table instead of each of us operating separately. We can collaborate on what's going to make things better - in terms, of course, from our standpoint, the prosecution - but just the whole experience for the child witness or victim.”*

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## **II. Benefits of specialization**

The advantages of MDT member specialization were repeatedly mentioned by the Crown in the interviews. Comments about the benefits of specialization were common for all MDT roles, but were raised most often in relation to investigative interviewers. Many Crown reported that the CAC resulted in better quality interviews conducted by interviewers with higher levels of specialization and training in child investigations. Further, Crown reported that the increased communication with the CAC resulted in overall better investigations that allowed for their input earlier on in the investigation.

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*“And I think that, you know, where they’ve [CAC] been involved, the file product has been better. The prosecution has gone smoother. Where we’ve had generalized people doing this kind of investigation, we, typically speaking, have seen some pretty horrific things happen, and some pretty poor management of witnesses, and interviewing techniques for witnesses.”*

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Descriptions of prior experiences with professionals with a lack of specialization seemed to drive much of the appreciation for trained investigators with experience and expertise. Many Crown noted the unique skill set needed to provide comfort while interviewing child victims and witnesses.

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*“when you have a constable of 20 years old with six months’ experience trying to interview a child with multiple sexual assault, the results are both poor and predictable.”*

*“And so, you know, I’ve seen a lot of terrible, terrible things happen in interviews, and I’ve seen prosecutions that simply weren’t viable because people didn’t know what they were doing with respect to child forensic interviews.”*

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Relatedly, Crown often discussed enhancement of training opportunities provided through the CAC as an important advantage. Workshops, lunch-and-learns, and other professional development opportunities for cross-expertise exchange were all discussed. Several Crown pointed out that increased opportunities for both delivering and receiving such training was an advantage of the CAC’s existence. This collaboration on training opportunities was also seen as a way to strengthen professional relationships and collaborative opportunities between professionals.

### **III. The Crown’s roles and responsibilities are not well understood**

One of the most prominent themes to emerge from the interviews was a sense that the role of Crown in the justice system was not well-understood. This theme permeated responses to most interview questions and was perhaps the most prominent concern of Crown.

Some of the Crown reported that requirements around information sharing could lead to the appearance of Crown disinterest in the case or the CAC. However, the lack of understanding of Crown disclosure obligations to information that is reliable and relevant to the case at hand led many of the Crown to avoid meetings in which such information could be discussed. Several Crown expressed a desire for CAC personnel to better understand disclosure obligations.

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*“With respect to disclosure, for example, and information sharing, once charges get laid and the case ends up coming to our office, we’re constitutionally obliged to- we are required to share all of the fruits of the investigation with defense counsel.”*

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Both decisions not to prosecute in cases in which the likelihood of convictions is low and/or cases in which the prosecution is not deemed to be in the public interest and decisions to prosecute when victims are reluctant, were discussed as difficult to manage. Some Crown described feeling that the CAC perceived a lack of support from Crown in such circumstances. The lack of understanding of how Crown decisions are made can lead to a misunderstanding of Crown’s motivations and potential frustration with perceptions of either action or inaction by Crown.

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*“If we have a reasonable likelihood of conviction and there’s a public interest in proceeding, sometimes those considerations don’t dovetail with the victim’s interest. So, you know, oftentimes, we have victims who are very reluctant to proceed, but there’s a bigger public interest in proceeding with respect to the prosecution. So, we deal with reluctant victims all the time, and it’s our job to ensure that the evidence gets before the court.”*

*“Often, as Crowns, we are required to make very difficult decisions about, for example, whether there is a reasonable prospect in the case and proceeding or not proceeding.”*

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To address some of these issues, BC produced a document for Crown/CAC relations that provides an overview of the role of Crown and emphasizes the need to maintain prosecutorial independence (*“The Role of the BC Prosecution Service in Child Advocacy Centres and Child and Youth Advocacy Centres”*).

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*“The role played by Crown Counsel in CACs/CYACs, must maintain not only actual, but perceived independence from other agencies and organizations in order to perform our role in a manner that best serves victims of crime and the public.”*

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Finally, it is important to note that although there was widespread discussion and awareness of the sensitivity of assuring Crown independence, there were substantive differences observed across Crown in the perception of the appropriate level of involvement at the investigation stage. Not all Crown felt that providing investigative input was within their role. One interviewee expressed a desire to see the file only once the investigation was complete, while others articulated a need for ensuring that they were not directive during the investigation, and still others lauded early consultation during the investigation.

#### **IV. Concerns with personnel continuity**

Crown often discussed benefits of open communication with the professionals supporting children through the CAC, as well as the importance of their unique specializations. Thus, it is not surprising that a consistent concern that arose was a lack of continuity in personnel. Several Crown expressed frustration that specialized MDT members, and police in particular, often transferred out of the CAC position either during the acquisition of expertise or just after.

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*“Things that have happened in the past is that you have certain officers and they’re just getting good at their job and then they get promoted to something else.”*

*“...now I have to work with some new people and make sure they understand what to do when they might get transferred in and not have the training and the training is only offered every once a year or once every two years and so you’ve just got to go with those things that you have no control over.”*

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#### **V. Facility dogs**

Though there is little empirical research that has yet examined the use of support dogs for child victims and witnesses, anecdotal reports from Crowns were very positive. Indeed, more than half of interviewed Crown spontaneously singled out facility support dogs as innovations that provided substantive benefits for child victims and witnesses. Given that not all CACs have facility dogs, the frequency with which dogs were discussed was striking.

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*“I can’t even begin to tell you what a difference having those dogs have been. Because our experience as Crowns has been that having a dog support a child when they testify, where the child is comfortable with the dog, has increased their ability to give full and truthful evidence in court.”*

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## LESSONS LEARNED

Interviewees were asked about the best parts of working with a CAC, critical elements for a successful relationship, and any frustrations they had or changes they would make to their current relationship.

- When asked what the **best part** of having a specific relationship with a CAC was, the most frequent response was that the CAC supported children, reduced their trauma, and made them more comfortable. Other common responses included: enhanced professional relationships and collaboration, specialized professionals, a single location for children’s services, improved evidence/testimony from children, better chance of a successful prosecution, assistance with logistics, easier for parents and families, increased quality of services, and ability for Crown to provide additional guidance to investigators.
- Commonly observed **changes** to evidence and processes since the implementation of CAC were: better victim/family support, children are more prepared and comfortable, better quality interviews/statements, better investigations and earlier input on investigations, increased specialization of MDT members, more professional collaboration, less background work for the Crown required, and the use of facility dogs to improve children’s comfort.
- When asked about the **critical elements** required to make the Crown/CAC relationship work, the most common response was communication among professionals. Understanding the players’ roles and consistency in who fills the roles were also expressed as critical. Other responses included enhanced training opportunities, accessibility of players, sustainable funding, trust, independence of Crown, and greater integration of Crown.
- When asked **what they would change** about their current relationship with the CAC, most Crown responded with either “nothing” or desired increased integration with the CAC. However, several interviewees also indicated a desire for the CAC and MDT to have a better understanding of the roles and responsibilities of Crown; more specialized, forensic interviewers; and one Crown sought more distance in their Crown/CAC relationship.
- Reported **frustrations** from the Crown about the relationship, again included a lack of understanding of the Crown’s roles and responsibilities, as well as how Crown understaffing did not allow them to take full advantage of CAC resources. There was also discussion of practical challenges including the lack of cell phones, and physical distance from the CAC. Several interviewees indicated that they had no frustrations,

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*“...any frustrations, any difficulties, any challenges are dealt with so early on that they don’t become big problems.”*

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- Two clear themes emerged in Crown responses to **potential downsides** to the Crown/CAC relationship: the possibility of continued misunderstanding of the role of Crown and the related concern of awareness of the disclosure implications. Several Crown also discussed a desire for expansion of CAC services and relationships.

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*“It strikes me as unfair that if you live in a place like [X], which is quite rural, that you should get a different level of service if something like that happens to you, than if you live in [big city].”*

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## ADVICE FOR DEVELOPING CROWN AND CAC RELATIONSHIPS

One aim of the present study was to document current relationships between Crown and CACs. However, an additional aim was to provide thoughts and advice for those who will be establishing and navigating such relationships in the future. To this end, Crowns were asked to provide a key piece of advice to a Crown just entering into a relationship with a CAC. Responses were rather consistent across Crowns, with four primary themes:

- Clearly communicate your role and the boundaries of your role;
- Communicate and collaborate openly with the CAC;
- Accept the assistance provided; and,
- Learn about the CAC, visit the facility.

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*“They’re going to help your kid no doubt and they’re going to help you, the Crown, because there’s going to be less things for you to have to worry about. You can focus on the big things in your prosecution. I just find sometimes people can, you know we can be stuck in our ways of how we prosecute something and when there’s something new that comes up and someone’s offering to help, I can see someone going, ‘no, we’re good. We don’t need help.’ And I think it’s important to leave that at the door and at least give people a shot.”*

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Crowns were then asked to provide a key piece of advice to a CAC entering into a relationship with a Crown. Again, Crown were quite consistent in the responses provided:

- Understand the Crown’s role;
- Communicate and collaborate openly with the Crown ;
- Ask for advice from Crown and ask Crown what they need;
- Trust each other; and,
- Watch a court case.

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*“A lot of them have never been to trials and see what goes on. I think that might be, because I’ve had officers that afterwards came and watch and they’re like, ‘Oh, now I understand what your job is, how you use the videos...’ I think that would be good if they had time to come and watch a prelim and then maybe go to [court] and see a trial and see how people are questioned. That would show them what the importance of their questions are or how to conduct interviews for the improvement.”*

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## DISCUSSION

There was a great deal of variability in the relations between Crown and CACs in Canada. This variability came in the nature and frequency of meetings and consultations, the presence of training and advice, and beliefs about the degree of appropriate closeness. Yet, despite the differences in CAC models across Canada, and the differences in the interactions between Crown prosecutors and CACs, there were remarkable similarities in the observed benefits and the concerns reported by the Crown interviewed in this study.

It is clear that Crowns currently working with CACs are acutely aware of the unique nature of cases involving child victims and witnesses. These special needs place demands on Crown that some reported feeling under-resourced to handle. The uniqueness of these cases requires a specialized resource-intensive response, one that brings together services in a way that may not typically be required in other types of criminal cases. Thus, Crown recognition and appreciation of specialized professionals working on these cases through the CAC was a prominent theme in interviewee responses. Enhanced training opportunities for all professionals working with the CAC, the ability to develop expertise, and reduced staff turnover were raised by most interviewees as desirable goals.

However, there was also frustration expressed about being misunderstood. The role of the Crown in the Canadian justice system is to serve the court and the public interest. As a result, their independence from the CAC is critical. Yet, this need for independence creates a natural tension when Crown are strong supporters of the CAC concept and of the use of CAC resources as an effective method for seeing these cases through the justice system. To continue to promote strong professional collaborations, many Crown felt that enhanced understanding of their role, including their independence and prosecutorial discretion, was needed.

Some Crown indicated that they believed further education was also needed about disclosure obligations. Crown reported deliberately avoiding situations in which they may be exposed to information that would be subject to disclosure guidelines and case law (e.g., *R. v. Stinchcombe*, 1991). However, they perceived that their colleagues did not always understand the reason the prosecutor was not in attendance for particular meetings. As with the broader understanding of the Crown role, a fuller understanding of legal disclosure requirements was desired.

Finally, it was also interesting to note that Crown perceptions of the benefits of CACs were consistent with findings in the empirical literature of an improved experience for children (Cross et al., 2007; Faller & Palusci, 2007; Jensen et al., 1996). The consensus between empirically observed benefits and the perceptions of those working directly on these cases contributes to the evidence for the continued use of the CAC model in Canada.

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## JURISPRUDENCE

*Boucher v The Queen*, [1955] SCR 16.

*R. v Egger*, [1993] 2 SCR 451.

*R. v O’Connor*, [1995] 4 SCR 411.

*R. v Regan*, 2002 SCC 12, [2002] 1 SCR 297.

*R. v Stinchcombe*, [1991] 3 SCR 326.



## APPENDIX – INTERVIEW SCRIPT

### Background

How many years have you been a Crown?

How many years has your work focused on prosecuting crimes against vulnerable victims?

### Current arrangement

Do you have a specific relationship or arrangement with a CAC/CAC? Please describe/explain.

If not addressed:

- i. Are you officially part of the MDT?
- ii. Do you (or another Crown) attend MDT meetings regularly? If no, attend to discuss a specific case?
- iii. Do you use the CAC facilities for any of your work with the victim/witness, such as meetings or court preparation?

What is the best/most effective part of having a specific relationship with a CAC/CAC? (regardless of whether they do)

Is there anything you would change about your current arrangement with the CAC/CAC?

Does anything frustrate you? Is there anything you would like to improve? Please explain.

How satisfied are you with your current situation as it pertains to your involvement with a CAC? 1-10

Is there a key person with whom you work at the CAC (i.e., one contact person)? Are there consistent people? Do you provide any training/advice/guidance and to whom?

If training/guidance: How receptive are they (for each group/person mentioned)? 1- 10

### Ideal arrangement

What are the critical elements to making such an arrangement work?

How does [should] file sharing/communication work? (i.e., privacy legislation/concerns)

Do you foresee any possible downsides to Crowns in Canada having a formal arrangement with CACs? How would you improve the model?

### Outcomes

Have there been changes in process and/or outcomes of these cases since the Crown started working closely with the CAC? If so, please tell us about these changes.

For example,

- 1) Has the quality of the evidence improved since the implementation of the CAC in your region? Yes/No Explain.
- 
- 2) Has the quality and availability of support(s) for the victims/witnesses improved since the implementation of the CAC in your region? Yes/No Explain.

If you could provide one key piece of advice to a Crown going into a new CAC/CAC relationship, what would it be?

If you could provide one key piece of advice to a new CAC about working with Crown, what would it be?