

**Preparing for  
&  
Presenting in Court  
Workshop**

2013

**Reference Workbook**

*For Facilitators and Participants*



Alberta Association  
of Services for  
Children and Families

Alberta

Human Services



***The Preparing for & Presenting in Court – 2013 Workshop  
Reference Workbook for Facilitators and Participants***

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- Andy Holt, A-Squared Communications;
- Julie Mann, Program Consultant, Child Intervention Outcome and Practice Supports, Alberta Human Services;
- Sandra Maygard, AASCF-OBSD Lead;
- Pauline Smale, Vice President of Client Services, The Family Centre;
- Tracey Snow, Solicitor, Alberta Justice and Attorney General; and
- Kim Spicer, Senior Manager, Policy, Practice and Program Development Branch, Alberta Human Services.

## **Note on Delegated First Nation Agencies (DFNAs)**

Alberta children and families receive services from ten Child and Family Services Authorities (CFSAs) and 18 Delegated First Nation Agencies (DFNAs). Both the CFSAs and DFNAs are responsible for providing child intervention services but there are jurisdictional and funding differences.

Because DFNAs have not actively participated in the OBSD initiative, the term CFSA has been used exclusively, rather than CFSA and DFNA, or CFSA/DFNA when referring to this initiative.

Provinces are responsible for child intervention services and each province has its own version of the *Child, Youth and Family Enhancement Act* (CYFEA). DFNAs are responsible for child intervention services to children, youth and families living on First Nations reserves. Services on reserves are funded by the federal government, while programs and services off-reserve are funded by the provincial government.

## **Part I: How to use this Reference Workbook**

### ***For Facilitators and Participants***

There are seven Parts to this Reference Workbook; some will be more useful to the facilitator than the participant and vice versa. In particular, facilitators will need to be familiar with *Part II – How to Deliver this Workshop*, while participants should become aware of the supplemental materials and other resources made available to them throughout the workbook.

Facilitators and participants alike are asked to review the Contents page to become familiar with the subject matter presented in each Part applicable to them. Facilitators may wish to become familiar with the contents of the entire workbook.

## **Part II: How to Deliver this Workshop**

### ***For Facilitators***

### **Overview**

This workshop and the materials included in this Reference Workbook may be used by CFSA Units and Agencies as part of their on-going staff development, in staff meetings, to train new staff, or as refreshers for existing staff who have been with the OBSD program for some time. Included are the following.

- **Preparing and Presenting in Court for Staff Working in Child Intervention Services PowerPoint presentation** developed by: **Jacqueline Dagneau**, Manager, OBSD, The Family Centre; **Julie Mann**, Program Consultant, Policy, Practice and Program Development, Alberta Human Services; **Sandra Maygard**, AASCF-OBSD Lead; **Tracey Snow**, Solicitor, Justice and Attorney General; and **Kim Spicer**, Senior Manager, Policy, Practice and Program Development Branch, Alberta Human Services.

There are a total of 23 slides in this presentation; a hard copy of the presentation may be printed as a reference for the participants. A link to this presentation can be found on the AASCF Web-site: [AASCF Training Materials & Resources](#).

- **Preparing and Presenting in Court for Staff Working in Child Intervention Services video** presented by Tracey Snow, Justice and Attorney General. They can be viewed on their own or accompanied by hard copies of the PowerPoint presentation. Links to the videos can be found at:
  - Part 1 - <https://vimeo.com/53477203> (48 minutes)
  - Part 2 - <https://vimeo.com/53478537> (42 minutes)
- **Supplemental Materials** are provided for participants, along with **Significant Legislation**, a **Glossary of Legal Terms** and a list of **References and Other Resources**.
- The **Evaluation Form** is linked electronically on the AASCF Web-site: [AASCF Training Materials & Resources](#). A hardcopy is provided as well.

## Contacts for Additional Information

There may be unanswered questions, concerns and/or a need for additional information following the workshop. The video presenter can be contacted as follows.

- Tracey Snow, Solicitor, Justice and Attorney General, [Tracey.Snow@gov.ab.ca](mailto:Tracey.Snow@gov.ab.ca), Tel: 780-415-1878.

These resources may also be helpful.

- **Kim Spicer**, Senior Manager, Child Intervention Outcomes and Practice Support, Policy, Practice and Program Development Branch, Child and Family Services Division, Alberta Human Services, [Kimberly.Spicer@gov.ab.ca](mailto:Kimberly.Spicer@gov.ab.ca).
- The internal legal resources within each Agency.
- The **AASCF** is able to provide answers to questions and/or suggest other resource people. The OBSD Lead is Sandra Maygard, [smaygard@aascf.com](mailto:smaygard@aascf.com), and the administration contact Dawn Papineau, [dpapineau@aascf.com](mailto:dpapineau@aascf.com).

## Purpose

The purpose of this workshop is to:

- Increase the knowledge and skill level of Agency workers of court processes (i.e. understanding roles, preparing for and testifying); and
- Ensure Agency and CFSA workers have a common understanding of their roles and expectations in preparing for and providing evidence in court.

## Context

Within an OBSD context, the Child and Family Service Authority (CFSA) caseworker and Agency worker work collaboratively with the family to create, implement and monitor a plan that:

1. Support vulnerable children to live successfully in the community;
2. Ensure children in temporary care are quickly reunited with their family;
3. Ensure children in permanent care are placed in permanent homes as quickly as possible;
4. Ensure youth are transition to adulthood successfully; and
5. Aboriginal children live in culturally appropriate placements and receive services that are reflective of their history and culture.

On occasion, the CFSA worker, Agency worker and family may be required to appear in court. Working from a collaborative approach, more Agency workers are being requested to appear and present in court. This is a new experience for many. Appearing in court can be a daunting experience even for those who are familiar with the procedures.

Some of the issues identified by Agency workers include: knowing what to expect while in court; being prepared to go to court; understanding how to document files and create case notes that may be called into evidence months after the fact; working with families to prepare them for court while maintaining a positive working relationship; giving evidence; and/or the implications of not following through on court orders.

CFSA workers have additional responsibilities in that they have “delegated authority”. They present information to the court and but are also responsible for ensuring that the orders of the court are adhered to, as outlined by the judge.

Working within an OBSD approach requires creating greater awareness and understanding of court processes; appreciating the strengths, styles and approaches of those involved, including Agency and CFSA workers, court personnel (judges, lawyers), and families; and working collaboratively to achieve the desired outcomes for the child/family.

It is through genuine collaboration and mutual respect that positive working relationships are forged. One of the ways that has proven to enhance collaboration and the building of trust is to have staff involved in joint training opportunities. This workshop is one such opportunity.

## Duration

This workshop is planned as a two-hour session, but may be broken into shorter sessions as there are natural breaks in the video and PowerPoint presentation.

## Facilitation

Workshop facilitation is most effective when attempted by someone who has experience in training and has an understanding of adult learning needs.

### *Who should facilitate?*

**It is recommended that the facilitation be conducted jointly by CFSA and Agency staff, as collaboration is an underlying principle of OBSD and presenting both perspectives is useful and instructive.**

### *Introductions and Housekeeping...*

- Facilitator(s) introduce themselves
- Explain the purpose of the workshop (see above)
- Participants introduce themselves (if not known to each other)
- Other items (breaks (see Agenda), location of bathrooms, coffee etc.)

### *You will need to...*

Have a flipchart/whiteboard/blackboard available.

- Create a list of:
  - Participants' expectations; and
  - Questions to be addressed during the workshop.
- Revisit the list at the end of the workshop to ensure that all questions have been addressed.
  - If there are unresolved questions, let the participants know how they will be addressed and when.
  - *Feel free to contact the resource people identified above.*

Consider printing a hard copy of the PowerPoint presentation for each participant.

In addition, have a copy of the Evaluation Form for each workshop participant to fill out at the end of the workshop or direct them to on-line link.

## **Workshop Agenda/Delivering the Workshop**

This workshop was designed to be presented, by facilitators, to a number of participants who can view the prepared videos and make notes on printed copies of the PowerPoint presentation.

The videos and the PowerPoint presentation may be used by a single staff member. In this case it is useful to have a supervisor or other knowledgeable person available to answer questions.

### ***Introduction***

The **Preparing and Presenting in Court for Staff Working in Child Intervention Services video** (Parts 1 and 2) provides an overview of what Agency and CFSA staff can expect to experience in a court room setting. However, it does not follow the PowerPoint presentation.

The **Preparing and Presenting in Court for Staff Working in Child Intervention Services PowerPoint presentation** provides specific information on preparing for and presenting in court.

It is suggested that workshop participants review the PowerPoint presentation (23 slides), then view Part 1 of the video presentation <https://vimeo.com/53477203> (48 minutes).

### ***Break***

Have workshop participants view Part 2 of the video presentation <https://vimeo.com/53478537> (42 minutes). At 18 minutes into this part of the video, the presentation is complete and the remainder of the time is spent on questions and answers with the presenter.

### ***Discussion/Outstanding Issues***

### ***Evaluation***

All workshop participants are asked to complete the Evaluation Form. The evaluations are important, as they will provide information needed to create other web-based resource materials.

The Evaluation Form can be found on the AASCF Web-site: [AASCF Training Materials & Resources](#). As an alternative to completing the evaluation on-line, a hard copy of the Evaluation Form can also be found on page 28. These may be photocopied and distributed to participants, then faxed to the AASCF (780 428- 3844) once completed.

### ***Conclusion***

## Part III: Workshop Tools

### *For Facilitators and Participants*

#### PowerPoint Presentation

##### **Preparing and Presenting in Court for Staff Working in Child Intervention Services**

**PowerPoint presentation** developed by: **Jacqueline Dagneau**, Manager, OBSD, The Family Centre; **Julie Mann**, Program Consultant, Child Intervention Outcome and Practice Supports, Alberta Human Services; **Sandra Maygard**, AASCF-OBSD Lead; **Tracey Snow**, Solicitor, Justice and Attorney General; and **Kim Spicer**, Senior Manager, Child Intervention Outcomes and Practice Support, Policy, Practice and Program Development Branch, Child and Family Services Division, Alberta Human Services.

There are a total of 23 slides in this presentation; a hard copy of the presentation may be printed as a reference for the participants. A link to this presentation can be found on the AASCF Web-site: [AASCF Training Materials & Resources](#).

#### Video Presentation

##### **Preparing and Presenting in Court for Staff Working in Child Intervention Services**

**video** presented by Tracey Snow, Solicitor, Justice and Attorney General. They can be viewed on their own or accompanied by hard copies of the PowerPoint presentation. Links to the videos can be found at:

- Part 1 - <https://vimeo.com/53477203> (48 minutes)
- Part 2 - <https://vimeo.com/53478537> (42 minutes)

#### Evaluation Form

The Evaluation Form can be found on the AASCF Web-site: [AASCF Training Materials & Resources](#).

## Evaluation Form

Thank you for taking the time to answer the following questions. Your feedback will help improve the way workshops are delivered in the future, and the materials that are developed to support them.

Please choose the response that best reflects your experience. Provide any additional comments you believe would be useful to the workshop organizers.

1. Overall, did the workshop increase your understanding of your role, and what is expected of you, in preparing for and testifying in court?

☐ Yes      ☐ No

2. How helpful was each of the following in assisting you to understand your role, and what is expected of you, in preparing for and testifying in court?

### **The video presentation**

Not Very Helpful      Not Helpful      Helpful      Very Helpful      Did Not View

### **The PowerPoint presentation**

Not Very Helpful      Not Helpful      Helpful      Very Helpful      Did Not View

3. How helpful do you think the other resources (Supplemental Materials, Significant Legislation, Glossary of Legal Terms, etc.) will be in assisting you to understand your role, and what is expected of you, in preparing for and testifying in court?

Not Very Helpful      Not Helpful      Helpful      Very Helpful      Have Not Reviewed

Comments:

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4. Do you have any suggestions that would help improve the workshop experience for other participants?

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5. In order to determine who is participating most in this workshop, please provide the following information.

Date workshop completed: \_\_\_\_\_ (YYYY/MM/DD)

\_\_\_ Agency Staff    \_\_\_ CFSA Staff

\_\_\_ Supervisor    \_\_\_ Frontline Worker

\_\_\_ Participated in a group setting    \_\_\_ Viewed workshop material on my own    (Choose One)

\_\_\_ New staff (employed in field < one year)    \_\_\_ Other    (Choose One)

## Part IV: Supplemental Materials

### *For Participants*

#### Introduction/Purpose

Historically some agency staff may have had experiences within the courts and/or have been called as a witness. Under OBSD, agency staff are being requested and subpoenaed to appear in court much more frequently.

The courts are formal structures, with a long history of how matters are determined. As such, it is important for staff, who will be presenting in court, to have a basic understanding of the underpinnings of the Canadian legal system, the structure of the courts, roles within the court and expectations of being a witness.

While agency workers need to be familiar with the *Child, Youth and Family Enhancement Act* (CYFEA), they may be working with families that are also impacted by other pieces of legislation. As such, we have also included an overview on some of the Acts we feel may be relevant.

#### Canadian Justice System

The Canadian justice system guarantees everyone due process under the law and the legal system is based on a long history that includes the rule of law, freedom under the law, democratic principles and due process. Under Canada's Constitution, provincial governments have jurisdiction over the provision of fundamental social services - health, education and welfare, control over civil and property rights, and power over local government.

#### *The Rule of Law*

In order to protect the freedom of the individual against arbitrary use of state power, democratic societies developed the principle of "the rule of law".

- The power of the state may encroach upon the freedom of choice only through the authorization of law.
- No one is above the law and everyone is subject to it.
  - If the law is silent, each of us retains complete freedom of choice.
  - On the contrary, we are entitled to the protection of the state.
- Some restrictions on our freedom are necessary and desirable.

- No matter how necessary and desirable, such restrictions cannot be imposed upon us through the power of the state unless they are incorporated in law.

### *Due Process of Law*

In democratic societies, citizens are entitled not only to the rule of law, but also to due process of law.

- The law must be enacted in an open public session, where citizens can watch their representatives in debate, discussion, and decision.
- New bills usually take a while to become law as they must be debated in principle and in detail, which enables citizens to let their representatives know what they think. They may write, speak, advertise, or demonstrate in order to influence the judgment of the legislators.
- Democratic societies convene periodic elections, with the length of office being time-limited. Ultimately, the people may approve or reject the decisions of our representatives by voting for them or for their opponents in elections. This open legislative process cannot, of course, guarantee us against improper restrictions on our liberty, but it can help to minimize the risk.

### *Due Process in Applying the Law*

While due process in enacting law is one matter, there must also be due process in applying the law:

*Suppose our parliament, feeling the need for additional revenue, were to impose a new tax: that we pay an additional 5% "on all of the income earned during the year".*

*Suppose, that I win a million dollars in the lottery?*

*Is the million dollars subject to the new 5% tax? That depends upon the meaning of the new law. Does the word "income" include a prize? Is a prize which has been won the same as "income" which has been "earned"?*

Unhappily, human language is capable of conflicting interpretations. Someone must have the power to settle the question. Should our parliamentarians, be empowered to resolve these thorny questions of interpretation? If we let them settle the issue, we again run the risk of arbitrary decision making.

*The members of parliament who most want revenue to flow into the government's coffers would be tempted to decide the question against me.*

*If, on the other hand, I was an influential citizen who had worked hard for the ruling party in the last election campaign, the parliamentarians might be tempted to decide the question in my favour.*

The problem with politicians in this role is that no matter how fair they may be or try to be, the pressures on them are such that they will not appear fair.

What is true of tax laws is true of laws in all fields - wills, trusts, welfare property, labour, crimes, etc. The danger in all these fields is that the question of liability or impunity, guilt or innocence, rightness or wrongness will appear to be decided according to the influence of the litigants rather than according to the evidence of their conduct and the provisions of the law.

If we are to be governed by the rule of law rather than by the whims of those who rule, we cannot allow politically self-interested individuals to decide how to interpret and apply the law.

What is needed are decision makers who are independent of political and other social interests. The difficulty however, is that all people have some interest or other, some bias or other, that might distort or appear to distort the fairness of their judgments. This realization has led democratic societies to establish an **independent judiciary**. We have provided for the appointment of judges who must disengage from the political affairs of the community and simultaneously enjoy tenure (usually, the rest of their working lives) in the office they hold.

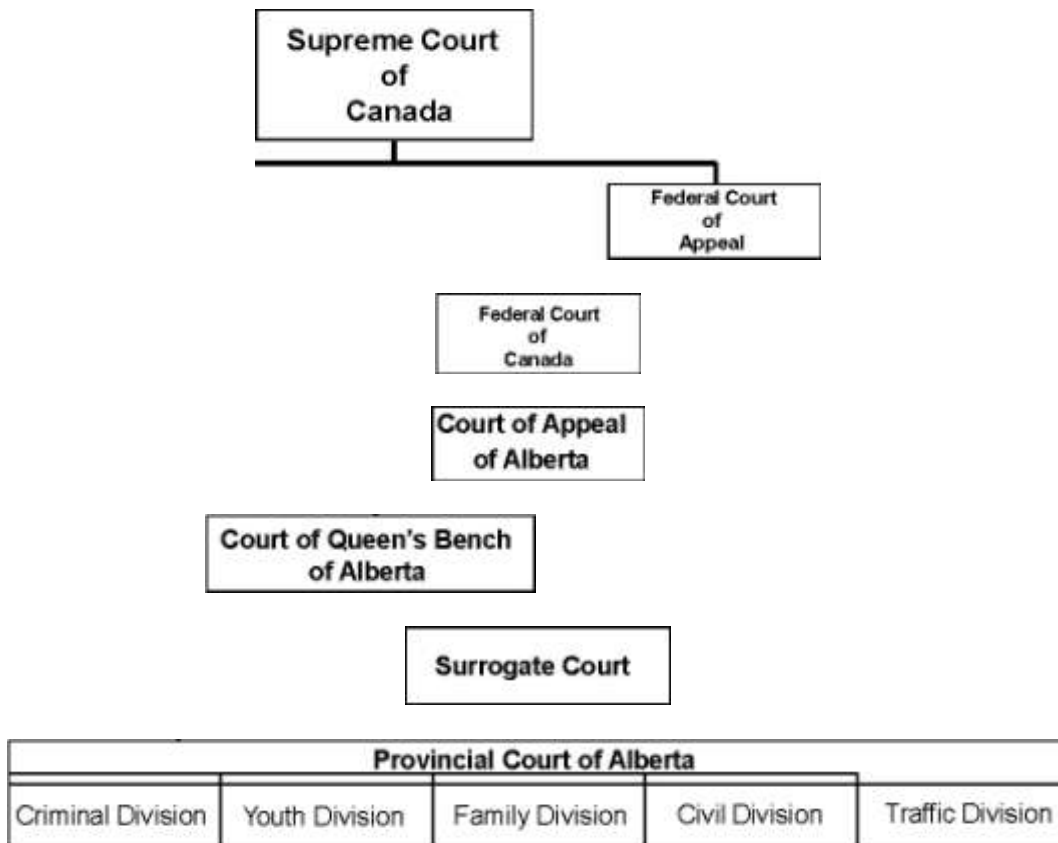
But even politically uninvolved judges with tenure are human beings with human faults. How can we reduce the risk that their decisions will be biased, arbitrary, or simply mistaken? Just as our political representatives were required to observe certain procedures in enacting law, so too must our judges adhere to "due process" in applying the law.

All parties who may be affected by a judgement are entitled to a fair hearing. At the very least, this means advance notice of what is to be claimed against them, the opportunity to confront and cross-examine those who are testifying against them, and an opportunity to tell their side of the story. The complexities of modern law require also the right to the assistance of trained legal counsel. As a further protection against arbitrary process and unfair decision making, hearings generally should be held in public and the subsequent judgements should be published for all to inspect.

In addition to the ordinary courts of law, our complex society has created also a network of independent administrative tribunals which adjudicate disputes in problem areas where special expertise is required - business licensing, labour relations, workers' compensation,

securities, welfare, etc. In varying degrees, the principles of tenure, disengagement from political activity and procedural "due process" apply to these tribunals as well as to the ordinary courts of law.

## Overview of Courts



<http://www.justice.gov.ab.ca>

### *Supreme Court of Canada*

The Supreme Court of Canada, although not constituted or administered provincially, is the court of last appeal for courts of provincial jurisdiction. The Supreme Court has jurisdiction over disputes in all areas of the law, including:

- Constitutional law;
- Administrative law;
- Criminal law; and
- Civil law.

The court consists of a Chief Justice and eight other judges (three from Quebec, three from Ontario, two from Western Canada, and one from the Atlantic Provinces) all appointed by the federal government.

The Supreme Court of Canada plays a special role as adviser to the federal government. The government may ask the court to consider questions on:

- Any important matter of law or fact;
- Interpretation of the Constitution;
- Interpretation of any federal or provincial legislation; or
- The powers of Parliament or the provincial legislatures, or their respective governments.

### *Federal Court of Canada*

The **Federal Court of Canada** handles matters relating to:

- Intellectual property;
- Civil litigation involving First Nation, Métis and Inuit;
- Federal Crown litigation;
- Federal Crown judicial reviews; and
- Maritime legislation.

***There are three courts in Alberta, all constituted by provincial statute and administered by Alberta Justice and Attorney General:***

- The Court of Appeal;
- The Court of Queen's Bench; and
- The Provincial Court.

***The Court of Appeal*** is the highest appeal court in the province.

- The Chief Justice of Alberta and other justices preside over this court; are appointed to their position (until age 75) by the federal government and must be:
  - A lawyer in good standing;
  - In practice for at least 10 years; and
  - A Canadian citizen.
- The Court of Appeal sits in Edmonton and Calgary only.
- The Court of Appeal can hear most civil and criminal appeals and can also hear applications and appeals respecting certain judgments, orders and decisions of the other courts.

***The Court of Queen's Bench*** is a superior court of civil and criminal jurisdiction.

- It holds jury trials for both criminal and civil matters.
- It can hear civil trials for damages, regardless of the amount.
- It handles matters such as divorces, adoptions, foreclosures, and bankruptcies.

The Court of Queen's Bench sits on a regular basis in 11 locations and sits on certain specified days in two other locations.

**The Surrogate Court of Alberta** handles matters in relation to:

- Wills and estates;
- Adult Guardianship; and
- Trusteeship Act applications.

***The Provincial Court*** permanently sits in 21 locations throughout Alberta, and sits on certain specified days in 53 other locations. There are divisions of the court to deal with specific matters.

- The Criminal Court generally deals with criminal offences.
- Family Court handles most Child, Youth and Family Enhancement Act (CYFEA) and Protection of Sexually Exploited Children Act (PSECA) matters and certain custody and maintenance disputes.
- Youth Court hears matters under the Youth Criminal Justice Act.
- Civil Court handles civil claims where the amount claimed does not exceed \$25,000.
- Traffic Court primarily hears matters under the Traffic Safety Act.

All judges of the Provincial Court of Alberta are appointed by the provincial government and may hear any of the foregoing matters. Sitting Justices of the Peace hear matters in Traffic Court.

## **Roles within the Court**

*A delegated CFSA Caseworker* is responsible for:

- Preparing court documents;
- Filing documents at the court;
- Serving documents;
- Providing testimony;
- Explaining the court system and the possible orders to parents and families;
- Preparing witnesses for court appearances;
- Gathering information needed for courts;
- Arranging for all parties attendance at court;
- Providing copies of orders to guardians;
- Providing services to families before, after and during court;
- Providing instruction to the Family Law Lawyer/Agent on how to proceed with a file; and
- Providing information to all parties involved.

*The Social Enhancement Lawyer/Agent* is responsible for:

- Responding to case specific issues/questions;
- Preparing cases for presentation for the courts;
- Vetting files for disclosure;

- Representing the Ministry's direction to the judge and opposing counsel;
- Providing case specific legal advice to the caseworker;
- Maintaining lines of communication with the opposing counsel; and
- Examining and cross examining all witnesses in the matter before the courts.

*The Judge* is responsible for:

- Making decisions based on the information presented before the courts;
- Listening to and taking into consideration the information provided by all parties;
- Making any order that he/she sees fit; and
- Determining the terms of orders.

*A Justice of the Peace* functions as a "check and balance" between the administration of police powers and the rights of accused persons as guaranteed under the Charter of Rights and Freedoms. Justices of the Peace are appointed to perform specific administrative and judicial functions of the provincial court, such as:

- Administering oaths for criminal charges laid by the police or the public;
- Reviewing and signing court issued processes (Summons, Warrant for Arrest or Undertaking);
- Reviewing and issuing Subpoenas compelling witnesses to attend court;
- Administering oaths for Affidavits, Affirmations and Declarations;
- Considering applications for Search Warrants; and
- Releasing people under conditions who have been arrested and are being held in custody.

Justices of the Peace are Canadian citizens, under 70 years of age and appointed to hold office for 10 years.

*A Clerk of the Court* is responsible for assisting the judge with the administration of the courtroom. In court, clerks:

- Call the court to session;
- Swear in witnesses;
- Mark documents as exhibits; and
- Sometimes call the order of the cases on the docket.

Outside the courtroom, clerks perform administrative functions such as:

- Preparing orders;
- Gathering the files for the next court appearance; and
- Scheduling the judges into various courtrooms.

***A Crown Prosecutor*** is a lawyer who is authorized to represent the Crown (i.e., the state) before all courts in the prosecution of offences:

- Prosecutors are employed by Alberta Justice;
- Prosecutors do not work together with the lawyers who represent the director (i.e., Social Enhancement Legal Team).

***Opposing Counsel:*** Parents involved in protection proceedings will often obtain their own legal representation referred to as the opposing council, who will:

- Prepare the case for presentation before the court and will advocate based on the parents' instructions; and
- Cross-examine the director's witnesses during a trial.

In Edmonton and Calgary, lawyers from the Family Law Office (FLO) may be retained to represent a parent.

***Children's Lawyer: Legal Representation for Children and Youth (LRCY)*** may appoint a lawyer to act on behalf of a child or youth receiving services under Child, Youth and Family Enhancement Act (CYFEA) or the Protection of Sexually Exploited Children Act (PSECA) if the child or youth:

- Is, or may be subject to an application or appeal under the CYFEA or the PSECA;
- Wishes to apply for an order under the Protection Against Family Violence Act (PAFVA); or,
- Is, or may be subject to, an application or appeal under the CYFEA.

***Law Enforcement Officers:*** The Police Act requires cities and towns with populations of more than 2,500 to provide their own police services. The provincial government provides policing for the rest of Alberta through the RCMP. The police and RCMP are responsible for enforcing and upholding the law.

**Witnesses:** People (which may include agency workers) who are called upon to give evidence (factual information) in a proceeding before a court. Only people who are deemed to be “expert witnesses” may be asked for their opinion. (See the sections on Preparing for Court, Witness Preparation and In the Court for more information as to the role and expectations of witnesses).

## Delegation

**Note:** the Children First Legislation (2013) will result in some internal changes as to the process of delegation but will not impact upon the responsibilities or accountability of a delegated worker.

A “**delegated caseworker**”, is charged with administering the *Child, Youth and Family Enhancement Act* (CYFEA) involving many responsibilities (duties and powers) including decisions to be made and activities to perform.

- The CYFEA explicitly describes some of these duties and powers; others are implied.
- The CYFEA assigns most duties and powers to the Statutory Director and some duties to the Minister of Human Services.
- Delegated responsibilities may be sub-delegated to persons employed or engaged in the administration of the CYFEA.

### *The Delegation Process*

A CEO of a CFSA, Director of a DFNA or in some circumstances worksite manager can delegate responsibilities to caseworkers.

The delegated responsibilities of the Director are greater than those of a worksite manager, whose delegated responsibilities are greater than those of a caseworker.

Each delegated caseworker receives a letter of delegation and an identification card.

- This letter indicates the level of authority delegated to that person.
- Each level of authority includes all the responsibilities (duties and powers) that have been sub-delegated to any other person employed or engaged in the administration of the CYFEA.
  - If a delegated caseworker is unavailable, the supervisor, manager or regional director may make the decision or perform the required duties.

An “**undelegated**” **caseworker** is a person who has not been given delegation status. For example, they can complete court reports and swear to the attached affidavit, so long as the following rules are adhered to:

- The court report must be co-signed by a delegated caseworker, preferably the supervisor;
- The affidavit sworn by the undelegated caseworker cannot state, “*I’m a duly delegated caseworker.*”;
  - The affidavit must either be sworn by the supervisor or reflect that the caseworker is undelegated;
- If evidence is required, an undelegated caseworker can speak to the facts of the information he/she collected and recorded, such as observations, contacts with collaterals, contacts with other professionals, and contact with the family and child(ren) involved.
- The undelegated caseworker cannot give evidence with respect to matters relating to forming an opinion on issues where a decision would be made in relation to a legal status, duty or obligation under the CYFEA.

### ***Authority to Delegate***

Any responsibilities assigned to the Director must be undertaken by a delegated caseworker.

- For example, if a Supervision Order states, “*the caseworker will attend at the home once every two weeks*”, this must be undertaken by a delegated caseworker.

## Mediation and Collaborative Decision-making Processes



***Alberta Human Services mediation program*** is responsible for:

- Providing mediation for contested matters (all parties must agree to attend mediation as it is a voluntary program);
- Assisting with the negotiation of the development of a concurrent plan; and
- Negotiating solutions to in situations where not all parties are in agreement (i.e. access).

Mediation services vary throughout the province and some mediation services (i.e. Family Group Conferencing) are provided by agencies.

Some of the other mediation processes available in some jurisdictions include Judicial Dispute Resolution (JDR), Alternative Dispute Resolution (ADR), Peacemaking Circles and Family Group Conferencing (FGC).

### *Judicial Dispute Resolution (JDR)*

A JDR is a pretrial conference procedure that involves a judge. In a JDR the judge provides all parties with the opportunity to voice their concerns and to hear the judge's opinion without the pressure of granting an order. If all parties agree or come to a solution, the judge can grant an order at that time.

- One of the objectives of a JDR is to resolve the dispute so that a trial may not become necessary.
- A JDR provides an opportunity for everyone to sit down, away from a courtroom, and discuss the case confidentially with a judge to see if there are any ways in which the issues can be resolved.
- A settlement is reached only when everyone agrees.
- The judge will give his/her opinion of the case in the JDR to help the discussion along.
- This opinion is not binding on the parties.
- The JDR can be scheduled anytime and does not delay trial dates already booked. If the case does not settle at or immediately after the JDR, it proceeds to trial.

Parties involved in the JDR process take on the following roles.

- **The judge** describes the focus of the JDR, listens to all of the presentations, discusses resolution options with the participants, canvasses settlement possibilities and provides his/her neutral opinion on the case.
- **The lawyers** present an overview of the case, evidence, legal position and resolution options, and participate in resolution discussions.
- **The parties** inform the judge of anything missed in the overview they feel is important for the judge to know.
- **The caseworker** presents additional information that should be considered in any settlement discussions.

A JDR is more like a meeting than a court appearance.

- The judge and the clerk will not be wearing robes as in court.
- The discussions in JDR are confidential. This means that any discussion about solutions or possible settlements must not be discussed outside the JDR and cannot be brought up at trial or placed in the court report if no settlement is reached.
- Only agreements reached will be turned into a court order in open court.

### ***Alternative Dispute Resolution (ADR)***

An ADR can be described as a continuum of processes, outside the traditional litigation process, usually entered into voluntarily by parties to a dispute in an attempt to resolve it that can include negotiation at one end of the spectrum, and binding arbitration at the other end of the spectrum.

- Section 3.1(1) of the *Child, Youth and Family Enhancement Act*, states:  
*Subject to the regulations, a child, the guardian of a child or a person who in the opinion of a director has a significant connection to a child may, with the agreement of the director, enter into alternative dispute resolution, as defined in the regulations, with the director with respect to any decision made by the director with respect to the child.*
- This clause permits any person with a significant connection to the child, including the director, the child, or a guardian, the option to enter into an ADR.

### ***Peacemaking Circles***

A Peacemaking Circle is a communication and problem-solving process that incorporates Indigenous spiritual and cultural traditions.

- Peacemaking Circles have been used in relationship development, healing, community building and restorative justice.
- Using this process, a sacred space is created that helps remove barriers and generate possibilities for connection, collaboration and mutual understanding.
- Peacemaking is offered when families do not agree with a court order and it can help the family and caseworker come to an agreement on issues such as:
  - Tasks and goals for the family in the case plan;
  - Plans for the children;
  - Plans for visits with the children;
  - How the family will support the children who are in care; and
  - The type of court status sought.

Participants in the Circle include Family members, Peacemakers, a CFSA supervisor, and an Elder.

- Peacemakers are neutral, skilled professionals that guide participants through the process, but do not make decisions for them.

- They ensure everyone involved in a Peacemaking Circle has the opportunity to speak their mind and share their ideas about the best plans for the children.
  - They help clarify issues, explore different problem-solving options, and assist participants in reaching an agreement.
  - Using the teachings of the Circle, a Peacemaker leads the process and encourages everyone to speak from the heart and have their say.
  - Smudging and prayers may also be used to help create positive interactions and a sacred space.
- An **elder** may be present to guide the participants in the Circle, encourage mutual respect and provide support, but they do not have decision-making ability.
    - The elder's participation can be arranged by the Peacemaker or by the family if there is already an established connection.

If a plan is reached, the Peacemaker signs it and all participants receive a copy of the plan. This helps people to start working on the plan right away and keep the commitments they made in the Circle.

If an agreement can't be reached, the case will go to court, as it normally would have.

### ***Family Group Conferencing (FGC)***

FGC is a collaborative decision-making process, which empowers families to make decisions regarding the care and intervention of children who are experiencing maltreatment, or are at risk of neglect or abuse.

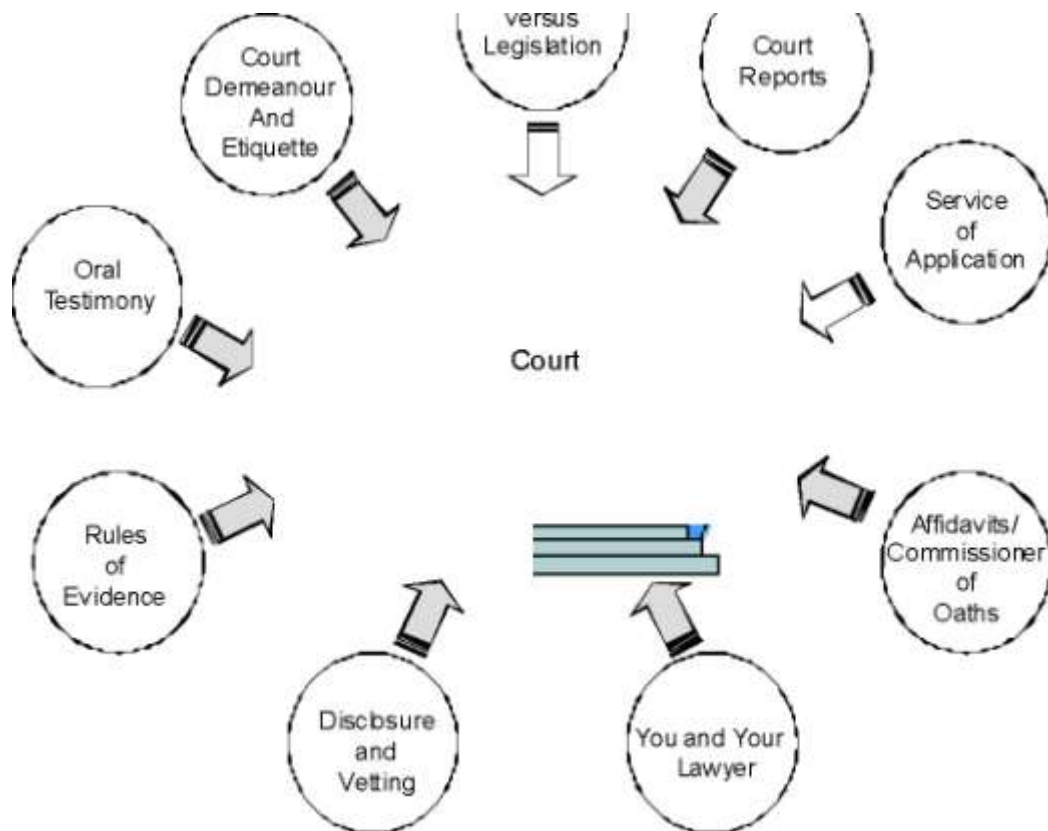
- The roots of FGC trace back to traditional Indigenous cultures in which the care and decision-making for children and youth was considered the natural responsibility of the extended family and community as a whole.
- FGC is an effective process increasingly used to empower families in need of intervention, extended family members and supports they have identified, to independently develop a plan for approval that addresses the concerns in question and establishes options for permanency.

While FGC is an option at any point during the involvement of Child Intervention Services (CIS), it's often used as early as possible, if a child or youth is assessed to be in need of intervention.

Benefits include:

- Families have the opportunity to actively be involved in the decision-making and care for their children;
- The approach is consistent with Indigenous values;
- Enables early identification and involvement of extended family members and other supports towards effective permanency planning, the development of workable solutions and the establishment of support and monitoring mechanisms available when CIS involvement is concluded;
- Offers a collaborative, strength-based, and culturally-sensitive approach in helping families;
- Creates plans that are realistic, achievable, and long lasting;
- Enables children to strengthen relationships and vital attachments with family, community and culture; and
- Promotes understanding, and restores balance and harmony for families.

## Preparing for Court



***All written materials - contact notes, reports, handwritten notes and datebooks – may be called into evidence.***

## *Contact Notes*

Contact Notes are extremely critical and need to be **thorough, accurate, timely, objective, clear and written for easy reader comprehension.**

### **Thorough**

- Contact notes should be **thorough** and contain all the information necessary to make critical decisions affecting the child/family, such as:
  - Who (child, children, family, foster parent);
  - What (reason for the contact and what was discussed);
  - When (date/time);
  - Where (at family's home); and
  - How (phone, voicemail, face-to-face).
- Contact notes must be signed.
- Every contact with the child/family must be recorded.

### **Accurate**

- Inaccuracy can lead to poor decision-making; it can convey misinformation to co-workers, and fail to support your judgment in court.
  - Make careful contact notes based on the facts.
    - Wherever possible record significant statements precisely as made and in quotation marks.
    - If required to testify sometime after the statement was made, this will assist in recollection.
    - The party who made the statement, if it is against their interest, may deny having made it.
      - The issue then becomes one of credibility. A direct quote, recorded and at the time it was made, has greater credibility in the eyes of the court.
  - Review the accuracy of the information in the contact notes, and assumptions based on them; and
  - Avoid making conclusions.

## Timely

- Notes regarding all telephone discussions, meetings etc. should be prepared at the time or immediately thereafter. In legal terms this is known as “contemporaneously”.
- The sooner information can be recorded the more accurate it is likely to be.
  - Some researchers believe that 75% of what we hear or see is lost to memory within 24 hours.
    - If documentation is not done in a timely manner, the record’s integrity as an accurate reflection of the observations may be challenged.

## Objective

- Maintain a professional and objective stance at all times and in all matters. When recording information, ensure to *separate facts from judgments*.
  - Facts should support the conclusions, not vice versa.
    - For example, the statement “*Mrs. Brady displayed inadequate home-making techniques*” is a judgment.
    - “*Mrs. Brady had no food in her pantry or refrigerator*” and “*the Brady children’s clothes were smeared with mud and feces*” are observations that support a conclusion.
- Do not record “gratuitous” comments (i.e. “she is so stupid”, “jerk” and even more derogatory comments):
  - Such comments cannot be vetted and will provide great assistance to the opposing lawyer when attempting to establish a prejudicial bias against the guardian;
- In forming and recording professional judgments about a family’s needs and problems, one needs to be extremely cautious about using “labels” (i.e. immature, defensive).
  - Labelling:
    - Is potentially libellous;
    - Can unfairly bias a reader of the record; and
    - Makes the writer appear biased.
- Avoid using terms that could denote a medical or psychological diagnosis, unless directly attributed to a medical or mental health professional that is qualified to make a diagnosis.

## **Clear and Written for Easy Reader Comprehension**

- As the range of potential readers is wide (e.g. supervisors, follow-up workers, hearing officers, crown attorneys, judges and/or the client), information recorded should be:
  - Organized;
  - Precise;
  - Legible; and
  - As concise as possible.
- Correct grammar, spelling and punctuation are important.
- Use concise, effective writing methods; avoid lengthy run-on sentences.
- Refrain from highlighting certain portions of the document:
  - This is considered to be “mutilating” a document and is not well received by the court;
  - Not only can it make it difficult for a reader but can also be used to establish a bias against the guardian;
- Although initially recorded, the full name of a referral source or foster parent subsequently should be referred to as the “foster parent/f.p.” or “referral source/r.s.”.
  - When documentation is reviewed, the identity of such individuals needs to be vetted.
  - If the full identity is used throughout the documentation the greater the possibility that one may be overlooked thereby inadvertently revealing the individual’s identity, leading to serious consequences.
  - If there are a significant number of places that require vetting the document becomes extremely difficult to comprehend.

***In summary, maintain files at all times as if you are preparing for court.***

## ***Disclosure***

Disclosure means revealing what previously was private knowledge.

Workers who write notes for a file continually need to be aware that everything in the file may be subject to disclosure to the guardians or their lawyer, if the case goes to trial and/or the client requests access to the file (depending upon the process determined to allow clients access the their information).

## ***Vetting***

To vet something, means to subject it to thorough examination or evaluation.

Files/reports will be vetted prior to being presented in court and some information will not be made available (i.e. name of a referral source or foster parent).

## ***Court Report***

The Court Report is a detailed document compiled by the caseworker for the court. While agency staff are not involved with the compiling or writing of the report we are including the required information as it may lend insight as to the expectations and role of the caseworker, who is held responsible, by the court, for the accuracy and completeness of the report.

1. Date of report;
2. Indication of who prepared the court report;
3. Names of the child(ren);
4. Birth date of each child;
5. Names of the biological parents of the children;
6. Name(s) of significant others in the children's life and their relationship to the child;
7. Status of the parents: married/separated/divorced/common law/uninvolved;
8. List of previous court orders and/or agreements, with dates of these orders;
9. Narrative including:
  - a. Problem giving rise to the intervention:
    - i. How the family came to attention of Child Intervention Services;
    - ii. Who responded and when;
    - iii. Observations by responding Child Intervention staff;
    - iv. Action taken;
  - b. Prior Child Intervention involvement and reason;
  - c. Cumulative time in care;

- d. Nature of services offered to the family in the past and the agency or individual providing the service;
  - e. Remedy being sought and reasons why;
    - i. services to be offered and goals;
- 10. Father's involvement if he is not living with the family;
- 11. Department's position concerning access if seeking a custodial order;
- 12. Contact with the child's extended family and their response;
- 13. If the child is Indigenous, what notice/consultation with the Band was made and how.

### *Service*

Service means telling a person about a court application.

Caseworkers need to serve various people with notice of the application the worker has filed with the court.

- All guardians of the child need to be served.
  - Under the Family Law Act, in most cases, the mother and father are both guardians of the child.
  - The child may also have other guardians (Private Guardians) such as an aunt or neighbor.
- If the child is 12 years of age or older, the child must be served.
- If the child lived with the same foster parent for the entire 6 months immediately before the application is made, the foster parent needs to be served.
- If the person who had care of the child when the child was apprehended also had care of the child for the entire 6 months immediately before the application is made, that person needs to be served.
- If someone other than a director makes the court application, then the director is to be served.

The people to be notified have to be served either personally or by other means:

- All the guardians and the child (if the child is 12 or older) need to be served personally, meaning the document cannot be left in the mailbox, taped to their door, given to a friend, etc.
- Where someone other than a director makes the application, the director may be served by mail.
- Service to everyone must be at least 5 days before the court date.
  - The court has the authority to approve service of less than five days, but this will only happen in exceptional circumstances.

When an individual is served it means that person is **a party to the proceeding**, and has the right to fully participate by:

- Receiving information;
- Retaining legal counsel; and
- Examining witnesses in a trial.

Other than by being served, the only way a person can become **a party** is by applying to the court for permission to be considered a party. A person does not have the right to participate in the proceeding, if they are not a party.

### *Subpoenas*

A subpoena is a document, which directs a witness to come to court to testify on a certain date and time.

- If a person is required to attend to give evidence before the court, the court shall issue a subpoena directed to that person, which shall be signed by a clerk or a justice.
  - It is illegal not to come to court, when you are given a subpoena to attend.
  - Failure of a witness to appear in court may lead to their arrest.

### *Witness Preparation*

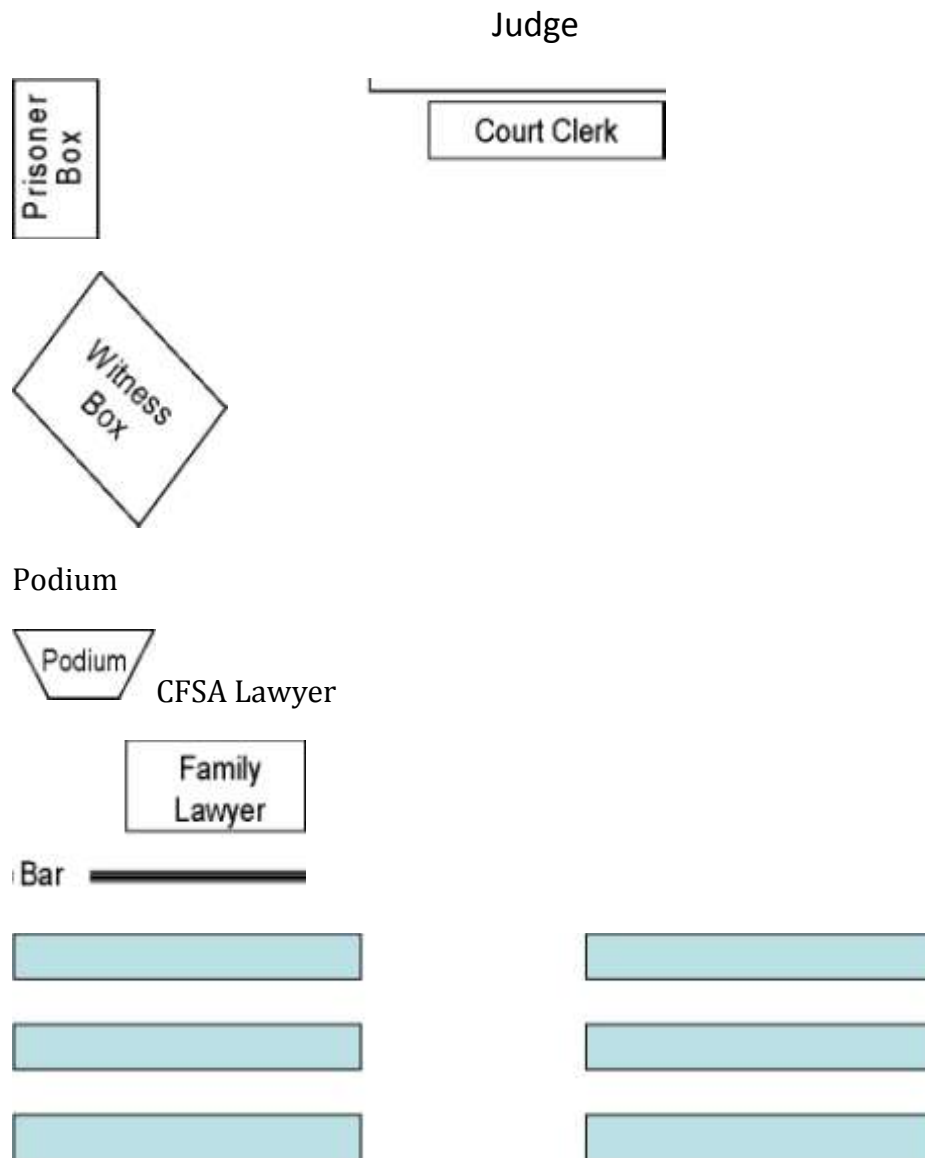
Many people called as witnesses, including family members and Agency staff, may be presenting in court for the first time, or if they have been in court before, may not be well prepared.

All witnesses need to know the following.

- The date, time, and location of the hearing.
  - Also, it may be helpful to have a map or directions to the courthouse and information on any security procedures in place.
- The procedure for checking in once they get to court and where they might expect to wait prior to their case being heard.
  - Usually witnesses wait outside the courtroom until they are called.
- The type of atmosphere to expect in court.
  - The hearing will be held in a formal courtroom where the witness will be asked to provide testimony from the witness stand.
  - They will have to take an oath to tell the truth and what the possible consequences are for breaking this oath.
- The type of clothing to wear to make a good impression as there is a dress code for court (i.e. business attire).
- The type of information they should be prepared to present.
- Any questions they have and who they can contact to find the answers.
- Information about the testimony given by other witnesses cannot be shared until the case/hearing is concluded.

## In the Court

### *Court Room Set-up*



Legal/Court Processes – January 2012

## *Swearing an Oath or Affirmation*

### **Oath**

When taking the stand, to testify in a court proceeding, the clerk will ask if you have an objection to swearing an oath on the Bible. If you have no objection, the oath will be administered as follows.

*“Take the Bible in your right hand please. Do you solemnly swear that the evidence you give to the Court as touching on the matters in question in this action shall be the truth, the whole truth, and nothing but the truth so help you God?”*

Answer: *“I do.”*

*“State your full name for the record please.”*

You may have observed a witness when being sworn in holding the right hand up rather than holding the Bible. This is called a “Scottish Oath.” It is rare to see it used today.

### **Affirmation**

If you prefer to affirm it will be administered as follows.

*“Do you solemnly affirm that the evidence you give to the Court shall be the truth, the whole truth and nothing but the truth?”*

Answer: *“I do.”*

*“State your full name for the record please.”*

## *Evidence*

**Admissible Evidence** is when information is deemed relevant and material, unless some positive rule excludes it.

### **Exclusionary Rules**

- Rule against “character” is usually inadmissible, except when:
  - A parent testifies;
  - A parent puts character in question;
  - Proving similar acts.

- Rule against “hearsay” is usually inadmissible, except when:
  - A statement by made by parent(s) and/or children (admission);
  - In former testimony (transcripts).
- Rule against “opinion” is usually inadmissible, except by:
  - An expert witness;
  - An ordinary witness giving opinions on matters of common knowledge based upon direct observation.

### *Court Room Etiquette*

It is important to present a **professional image** in all respects.

- Dress professionally as court is a serious place, and attire should reflect this.
- Ensure cell phones and pagers are off—not just on silent or vibrate mode.
- No sidebar conversations, no gum, no food or beverages (water is okay).
- Avoid talking to the judge “off the record” about a case either in court or out.
- Leave humor to the judge.

Stand when the judge enters and leaves the courtroom.

- Remain standing until the judge motions to sit or (s)he is out of the courtroom.
- Only lawyers bow to the judge as an acknowledgement of respect or upon leaving the courtroom; witnesses need not do this.
- Often a lawyer will remain standing as a way of cueing the judge that the lawyer wishes to address the court.
- Stand as the judge is about to leave the courtroom.

If the court is in session already and a witness is called to testify from outside the courtroom, proceed directly to the witness area.

- If a witness wants a glass of water (if none is available) or any other reasonable amenity, politely request it of the judge before commencing to give evidence.
- If a “comfort” break is needed during the course of testimony, it is permissible to request it.
  - The court will take regular recesses, usually at a convenient break in the questioning.

### *Guidelines for Providing Evidence (Being a Witness)*

You are sworn to tell the truth, the whole truth, and nothing but the truth!

- Have complete familiarity with the case file.
  - Prior to appearing, meet with the lawyer/agent to review file notes and reports.
  - Know the background and history of the family.
  - Speak from memory.
    - Do not bring notes unless they have already been submitted as evidence. Do not add any hand written comments to the notes to help you recall certain dates or events; highlighting text is acceptable.
    - Aim for spontaneous rather than memorized testimony.
- Expect to feel anxious and, at the same time, work to not show it.
  - Take time and remember to breathe.
    - Breathing is good. If a witness starts hyperventilating and begins to run out of breath, they may start to lose composure.
- When addressing the judge directly, use either “Sir” or “Madam” since the official title may vary according to the specific court.
  - The Provincial Court title is “Your Honour” regardless of the gender.
  - The Court of Queen’s Bench title is “My Lord, Your Lordship” or “My Lady, Your Ladyship”.
- Refer to the adult parties by their last name, preceded by “Mr., Mrs., Ms. or Miss.”
  - While a worker may comfortably refer to their clients by their first name outside the courtroom, it sounds too casual from the witness box.
- When responding to questions or speaking in court, keep in mind the following.
  - Make good eye contact with lawyers and judges.
  - Listen carefully to make sure it is understood what is being asked.
    - Pause, at least briefly after each question, so that the lawyer can object to the question if (s)he thinks it proper to do so.
  - Take time and think about the answer before speaking.
  - Ask for clarification on questions not understood.
  - Do not be afraid to indicate that you do not understand the question or that you do not know the answer to a question.

- Never guess.
- Answer the questions truthfully (in as few words as possible), promptly and frankly.
  - Speak slowly, distinctly and somewhat louder than usual, in order to be heard by all of those participating in the hearing.
  - The appropriate response is: “Yes” or “No”, not “yup”, “uh huh”, etc.
- Speak with confidence and be aware of tone and voice modulation.
  - It is important to capture and retain the attention of the judge, jury and lawyers.
  - The voice may be used to emphasize important aspects of testimony.
    - Refrain from being overly dramatic.
- Keep the volume of the voice at a level that can be heard.
  - A mumbling witness is irritating for those who are sincerely trying to hear what is being said.
  - Mumbling can also leave the impression that the witness lacks confidence in what is being said, damaging the credibility of the testimony in the eyes of the court.
- Body language is important.
  - The judge (and the jury if applicable) will be watching the witness throughout testimony and will assess credibility, not only by what is said, but on how it is said.
  - It is permissible to take time to consider the answer to a question.
    - However, do not appear to be evasive or wasting time.
  - Give answers confidently, but avoid appearing dogmatic.
- Project the image of an objective person relating facts.
  - Use ordinary language, to tell what has been seen, heard, felt, etc.
    - Relate the story in the natural order and sequence of events, as they occurred.
    - Evidence needs to be fair and balanced.
      - Give all the evidence in favour of the person in addition to the evidence against her/him.
  - Confine testimony to the facts, avoiding inferences, opinions and/or beliefs.
  - In assessing the credibility of a witness, the court looks at many factors.
    - Apparent partisanship or prejudice undermines credibility.
    - The testimony of an overly rigid and opinionated witness will be quickly discounted and may inspire opposing counsel to be particularly aggressive in cross-examination.

- A balanced summary of professional contacts will leave little scope for the cross-examiner.
- Do not express an opinion unless requested by the judge.
  - Only witnesses that have been qualified before the court as “expert” witnesses such as psychologists, psychiatrists, and medical practitioners may give an “opinion” during their testimony.
- If one makes an honest mistake, acknowledge it and make a suitable apology.

### *Cross-examination*

The lawyer for the parents of the child may attempt to discredit the testimony of a witness, if that testimony has been damaging to their client. Some tactics include the following.

- Attempting to intimidate a witness by a disrespectful attitude, abrasive tone, repetitious questioning, sarcasm, or indications of disbelief.
- Pointing out discrepancies between:
  - Records (what is written in the contact notes, reports) and testimony in court;
  - Statements made during direct examination and cross-examination; or
  - Out-of-court statements with statements made in court.
- Questioning the accuracy of a witness’s observations and/or memory:
  - Showing that the witness dislikes the parents and is therefore biased against them;
  - Showing that the witness did not offer any real assistance to the family; or
  - Showing that the witness is inexperienced or young or a combination of both.
- Demanding that the witness answer with yes or no to questions which can’t adequately be answered by a yes or no.
- Rapid-fire questions; usually done to cause confusion.
- Apparent friendliness; done to create a false sense of security so that the witness will give answers to their disadvantage.

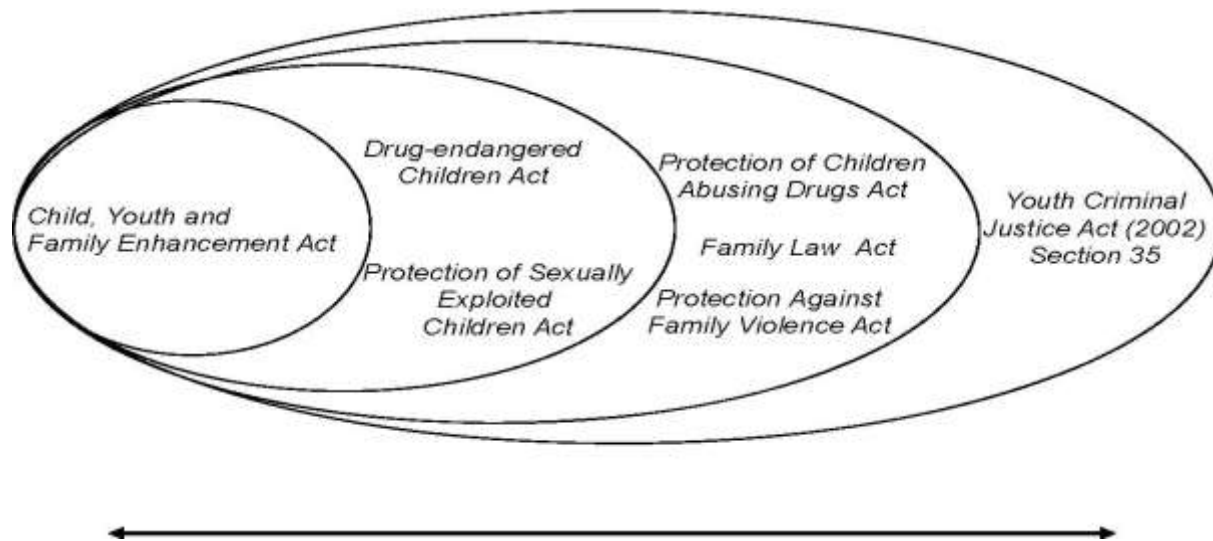
- Leading questions:
  - May be asked to try to confuse the witness, or
  - To make the witness react strongly or defensively.

It is important to **remain calm** during cross-examination and, most important, not to get angry or defensive with the lawyer. That is easier to do if the witness understands the purposes of cross-examination and does not take cross-examination personally.

- Questions need to be heard and understood.
  - If there is uncertainty as to the question or intent of the question, ask for it to be repeated or clarified.
  - If the witness does not know the answer, indicate that this is the case.
  - Always reply politely and non-defensively to “offensive” questions.
- Answer only the question that is actually asked.
  - Do not volunteer additional information.
- Address answers to the judge, not the lawyer.
  - Never argue with a lawyer or with a judge.

## Part V: Significant Legislation

### *For Participants*



### *Children First Act (2013)*

The *Children First Act* was brought before the Legislative Assembly on May 7, 2013 and passed third reading on May 14, 2013. The bill updates and amends legislation and enhances the tools, process and policies that impact how government and service providers deliver programs and services for children and youth. It also aligns with and supports the work of other initiatives including: *the Social Policy Framework*, *Early Childhood Development Strategy*, *Poverty Reduction Strategy* and *the Information Sharing Strategy*.

Key themes of the proposed legislation:

- Develop a **Children's Charter** to establish government-wide principles, priorities, roles and responsibilities. Five specific principles must be recognized in an Alberta Children's Charter:
  - All children are to be treated with dignity and respect regardless of their circumstances;
  - A child's familial, cultural, social, and religious heritage is to be recognized and respected;

- The needs of children are a central focus in the design and delivery of programs and services affecting children;
  - Prevention and early intervention are fundamental in addressing social challenges affecting children;
  - While reinforcing and without in any way minimizing the primary responsibility of parents, guardians and families for their children; that individuals, families, communities and governments have a shared responsibility for the well-being, safety, security, education, and health of children.
- **Enhance information sharing** between government departments, educational bodies, health care bodies, police services, parents or guardians or others, to allow for the sharing of a child's personal and health information for the purposes of planning and providing services.
  - **Changes to the *Health information Act* and *Freedom of Information and Protection of Privacy Act*** will promote the sharing of information for the purposes of enhancing a child's well-being, safety, security, education or health, while retaining the ability of individuals and bodies to use professional discretion in assessing when the sharing of information is most appropriate.
  - Formally establish the **Child and Youth Data Laboratory** in legislation and provide it with the information sharing provisions required to enhance its analysis and advice.
  - **Amend the *Protection Against Family Violence Act*** to formally establish a Family Violence Death Review Committee. Creating the committee will create a formalized process and bring together representatives from the Medical Examiner, police, justice system, health sectors, child intervention and other service providers to review all family violence deaths and make recommendations to the Minister of Human Services that support the prevention and reduction of family violence.
  - **Change the *Maintenance Enforcement Act* and the *Family Law Act*** to support greater information sharing and improve client services, ensuring that children and families receive appropriate levels of court-ordered financial support.
  - **Amend the *Protection Against Family Violence Act*** to help continue to protect parents and their children from family violence by allowing protection orders from other provinces to be recognized in Alberta.

- **Revamp the offence provisions within the *Drug Endangered Children Act*, *Protection of Sexually Exploited Children Act*, and the *Child Youth and Family Enhancement Act*.** The removal of the term “wilfully” from the offence provisions will ensure that those who put children at risk are held accountable, regardless of their intention or motivation, in appropriate circumstances.
- **Enhance the mandate of the Child and Youth Advocate** to allow investigations into the serious injury or death of young adults and to participate in appeal panels.
- Enhance relationships between child intervention workers and families by placing **team-based decision making** with the people who work most closely with the child and family. The amendments to the *Child, Youth and Family Enhancement Act*, the *Drug Endangered Children Act* and the *Protection of Sexually Exploited Children Act* recognize the importance of having decision-making done by professional staff working closest to the child, and that meaningful relationships with families and children are essential to delivering effective and responsive child intervention services. The amendments will clarify roles and responsibilities and further enable front-line workers, foster parents and kinship care providers to work together with their teams to make decisions in the best interests of the children and the families they serve. It also ensures that overall accountability and legal liability for the system will remain with the Crown, enhancing liability protection for workers who provide services to children in good faith and within the scope of their positions will be protected.
- Allowing **children under 12 to appeal court orders** made under the *Child, Youth and Family Enhancement Act*, and **allowing parents and guardians to apply for a review of a permanent guardianship order**. In Alberta, only the government could make an application to the court for a review of these orders once issued by the court. Enabling parents to make an application for a review of orders will open up additional avenues that could potentially keep families together, while maintaining assurances of child safety and well-being and the integrity of the process.
- **Extend the Premier’s Council on *Alberta’s Promise Act* through 2018.** Alberta’s Promise works to encourage organizations, corporations and individuals to enhance community resources in order to further the well-being of children.

## ***Child, Youth and Family Enhancement Act (CYFEA) (2004)***

The *Child, Youth and Family Enhancement Act* lead to a shift in casework practice. This included:

- An increased focus on supporting families to build capacity;
- An increased focus on the need for permanency for children;
- Meaningful consultation with Aboriginal communities; and
- Highlighting the importance of assessment, collaboration and engagement.

### ***A Child in Need of Intervention***

From Section 1 (2) of the CYFEA:

*For the purposes of this act, a child is in need of intervention if there are reasonable and probable grounds to believe that the survival, security or development of the child is endangered because of any of the following:*

- (a) the child has been abandoned or lost;*
- (b) the guardian of the child is dead and the child has no other guardian;*
- (c) the child is neglected by the guardian;*
- (d) the child has been or there is substantial risk that the child will be physically injured or sexually abused by the guardian of the child;*
- (e) the guardian of the child is unable or unwilling to protect the child from physical injury or sexual abuse;*
- (f) the child has been emotionally injured by the guardian of the child;*
- (g) the guardian of the child is unable or unwilling to protect the child from emotional injury;*
- (h) the guardian of the child has subjected the child to or is unable or unwilling to protect the child from cruel and unusual treatment or punishment.*

### ***Agreements, Orders and Plans***

#### **Family Enhancement**

Family Enhancement Agreement  
Enhancement Agreement with Youth  
Support and Financial Assistance Agreement

#### **Protection Services**

Apprehension  
Supervision Order  
Custody Agreement with Guardian  
Custody Agreement with Youth  
Custody Order

Interim Order  
Temporary Guardianship Order  
Permanent Guardianship Order  
Permanent Guardianship Agreement  
Secure Treatment Certificate  
Secure Treatment Order  
Adoption

## **Plans**

Family Enhancement Plan  
Transition to Independence Plan  
Secure Services Plan

## **Plans**

Concurrent Plan  
    Part A - Reunification  
    Part B - Permanency  
Secure Services Plan  
Family Enhancement Plan  
Transition to Independence Plan  
Supervision Order Plan

### ***Criteria for Apprehension:***

- The child is in need of intervention;
- The child remaining in the current situation will endanger the child's survival, security or development; and
- Less disruptive measures cannot adequately protect the child.

### ***Court Orders***

Court Orders are legally binding on everyone involved, including the Director. Failure to comply with a court order could result in the caseworker and/or the Director to be found in contempt of court, which carries a penalty of a fine or jail term.

It is critically important that court orders be followed, and legal advice sought if for some this is not occurring. Following are examples of non-compliance with court orders.

- Impossible to comply because of parents' conduct:
  - Parents are not attending visits that are scheduled in the order or the order requires the child to visit the family home but they are homeless.
- Over-compliance with the order:
  - Order says 2 visits/week and 3 are occurring.
- Temporary non-compliance:

- Order requires weekly visits but visits are suspended for a vacation or the caseworker is away.
- Compliance with the spirit but not the letter of the order:
  - Order has specific days and times for visits which have been adjusted to accommodate the parties' or the children's schedules.
- Non-compliance:
  - Court-ordered visits are cancelled resulting in failure to have children visit in the home as required by a Supervision Order.

### ***Drug-endangered Children Act (DECA)***

The DECA ensures specific protection for children endangered as a result of a caregiver's involvement in serious drug activity, most notably manufacturing and trafficking. The legislation:

- Defines a drug-endangered child as:
  - a. *the guardian exposes the child or allows the child to be exposed to, or ingest, inhale or have any contact with, a chemical or other substance that the guardian uses to illegally manufacture a drug;*
  - b. *the guardian illegally manufactures a drug in the presence of the child, or causes or allows the child to enter or remain in any place or premises where a drug is illegally manufactured or stored;*
  - c. *the guardian possess a chemical or other substance with which the guardian intends to illegally manufacture a drug in a place or premises where a child resides;*
  - d. *the guardian exposes the child or allows the child to be exposed to an indoor cannabis grow operation, or to the process of extracting oil or resins from cannabis plants;*
  - e. *the guardian involves the child in or exposes the child to trafficking; or*
  - f. *the child has been or is being, or there is a substantial risk that the child will be, physically injured, emotionally injured or sexually abused because the guardian is exposing the child to other forms of illegal drug activity. (DECA 1(2) (a-f))*
- Make it clear that a child exposed to serious drug activity is a victim of abuse and requires intervention;
- Raise public awareness of the significant risk to children exposed to drug manufacturing, trafficking and other serious drug activity; and
- Provide authority and guidance for caseworkers and police officers to take immediate action to protect a drug-endangered child.

All Child and Family Services Regional Authorities and Delegated First Nation Agencies have the capacity to receive and respond to reports from the community, 24 hours per day, 365 days per year, regarding a child who may require service under the DECA.

Referrals made under DECA may be made by any individual, or a community service provider who is concerned that a child is drug-endangered.

Reports are screened under the CYFEA. The timeframe for completing the screening activities is 5 working days, unless a more immediate response is required.

If a caseworker has delegated responsibilities under the CYFEA they are also considered a delegated caseworker under the DECA.

### ***Protection of Sexually Exploited Children Act (PSECA)***

The PSECA recognizes that a child who is sexually exploited is a victim of sexual abuse requiring services and protection and is based on the following guiding principles:

- Children involved in sexual exploitation through prostitution are victims of sexual abuse;
- Children have a right to physical and emotional safety, security and well-being;
- Children have a right to be safe from sexual abuse and protected from sexual exploitation;
- Children involved in, or at risk of becoming involved in sexual exploitation through prostitution require victim protection services and support;
- Families should be actively involved in ensuring the safety of children involved in sexual exploitation through prostitution;
- Children involved in sexual exploitation and their families do not require child protection status to receive services;
- Children and their families require access to support services; and/or
- Perpetrators of child sexual abuse – sex trade offenders and pimps – must be held legally accountable for their actions.

The PSECA provides protection, prevention programs to reduce the incidence of children and youth being sexually exploited through prostitution; and awareness of child sexual exploitation and the forms this exploitation can take, including prostitution.

The Act provides authority to confine an apprehended child in a protective safe house for up to 5 days.

- During this period, the child is assessed for protection needs, medical needs, drug and alcohol use, and other risks related to his/her involvement in sexual exploitation through prostitution.
- If the assessment determines the need for continued protection, a director may apply for up to two additional periods of up to 21 days confinement in a protective safe house.
- The decision to confine a child must be made by a director;
  - Police cannot make the decision to confine.

If a caseworker has delegated responsibilities under the CYFEA they are also considered a delegated caseworker under the PSECA.

### ***Protection Against Family Violence Act (PAFVA)***

The PAFVA is based on the following principles:

- Family violence is a crime;
- Nature of the violence, history of the violence, immediate danger to persons and property and best interests of the abused family members are considered upon application under this Act;
- Abused family members are entitled to the maximum protection under the law; and
- Abused family members are entitled to be free and safe from violence.

Further, the PAFVA:

- Supports abused family members to remain in their home;
- Provides the ability to continue financial support for the abused family members;
- Holds the abuser accountable; and
- Is complementary to the CYFEA and the Criminal Code of Canada.

The PAFVA is a complement to other legislation and has three key tools to enhance protection:

- Emergency Protection Order (EPO);
- Queen's Bench Protection Order (QBPO); and

- Warrant Permitting Entry (WPE).

An **Emergency Protection Orders (EPO)** can be applied for and issued 24 hours a day, and can be extended up to one year to provide longer term protection. The claimant (and other specified family members) may remain in the home.

- There is no cost to obtain an EPO.
  - Legal aid is provided free of charge for review of EPO regardless of financial qualifications.
- The following conditions may be contained in an EPO:
  - Restraining the respondent from attending at or near a specified place. This could include the residence, property, business, school, or place of employment of the claimant or family members;
  - Restraining the respondent from communicating with or contacting the claimant and other specified persons;
- Granting the claimant and other family members exclusive occupation of the residence for a specified period, regardless of whether the residence is jointly owned or leased by the parties or solely owned or leased by one of the parties;
- Directing the police to remove the respondent from the residence immediately or within a specified time;
- Directing the police to accompany a specified person to the residence within a specified time to supervise the removal of personal belongings;
- Directing the seizure and storage of weapons where the weapons have been used or threatened to be used to commit family violence;
- Any other provision that the judge or Justice of the Peace considers necessary to provide for the immediate protection of the claimant.

A **Queen's Bench Protection Order (QBPO)** is a court order and a breach of this order can be addressed by criminal and/or civil remedies. The Court of Queen's Bench has the power to impose consequences and cite in contempt those who breach it, including a court orders made under the PAFVA. The punishment may include a fine or imprisonment. .

These orders can be in effect for up to one year and have potential to be extended, if required and warranted, for further periods of up to one year.

A QBPO can provide similar provisions as an EPO, but can also:

- Require the respondent to reimburse the claimant for monetary losses suffered as a direct result of the family violence, such as the loss of earnings or support, medical and dental expenses, moving and accommodation expenses, and legal expenses;
- Grant either party temporary possession of personal property, including a vehicle, cheque book, bankcards, children's clothing, medical insurance cards, birth certificates, identification documents, keys or other necessary personal effects;
- Restrain either party from taking, converting, damaging property the other may have an interest in;
- Require the respondent to post a bond;
- Direct provisions for family pets;
- Order respondents to receive counselling; and/or
- Authorize the claimant to take a child to counselling without the consent of the respondent.

The **Warrant Permitting Entry (WPE)** allows the police to enter the premises named in the warrant to search for a family member (claimant), and with that person's consent, remove them from the premises (for the purpose of assisting or examining them). The police can apply for this warrant by phone.

### ***The Family Law Act (FLA)***

The FLA is provincial legislation that addresses issues such as:

- Child and spousal support;
- Property division;
- Custody;
- Access; and
- Private guardianship applications, where there is no Human Services involvement.

Note: Where the Director has jurisdiction, the application for private guardianship is to be made under the CYFEA.

### ***Guardianship under the Family Law Act***

A biological parent is a guardian if:

- They acknowledge the child is theirs; and
- They demonstrate their intention to assume the responsibilities of a guardian in relation to the child.

- If the **bio-mother** acknowledges the child is hers; she will always be a guardian;
- **Bio-father** is a guardian if he acknowledges the child is his. If the father is named on the registration of live birth he has acknowledged the child.

A **father** demonstrates his intention to assume the responsibilities of guardianship when he:

- Marries the mother either before or after the child is born; and if the marriage ends no more than 300 days before the birth of the child due to divorce, nullity or death, the father is still a guardian;
- Lives with the mother for a year during which time the child is born;
- Lives in an Adult Interdependent Partnership (AIP) with the mother of the child either at the time the child is born or after the child is born - where there is cohabitation of “some permanence”, time period not defined, or where there is an AIP agreement;
- Enters into an agreement that satisfies the requirements of the regulations with the other parent; or
- Volunteers to support or offers to support, either directly or indirectly:

### ***The Protection of Children Abusing Drugs Act (PChAD)***

The PChAD is administered by Alberta Health and Wellness and is intended to:

- Help minors who are addicted to alcohol or drugs and who cannot help themselves;
- Provide an avenue for parents/guardians to help their children, when all other options for intervention and voluntary treatment have failed; and
- Respond to a need expressed by parents, addicted children, addictions counsellors, teachers and police officers.

This legislation allows parents and guardians of children under 18 years of age who use alcohol or drugs in a way that causes, or is likely to cause, social, psychological and physical harm to themselves, or physical harm to others to apply to the court for a five-day confinement in a protective safe house. The applicant must be a parent or guardian.

- Once the child is in the protective safe house (located in Calgary, Edmonton, Grande Prairie, Picture Butte, or Red Deer), the child may be treated for the effects of

alcohol or drug use (detoxification) and staff from Alberta Health Services will undertake an assessment for alcohol and other drug abuse.

- Alberta Health Services will work with the child and family to engage in further treatment and develop a discharge plan with treatment recommendations.
- The child may request a review of the (apprehension and) confinement order and has the right to contact legal counsel and have legal representation.

Alberta Human Services staff do not have delegated authority under the PChAD and cannot provide services to children under this legislation.

### ***Youth Criminal Justice Act***

A Youth Justice Court may, at any stage of proceedings involving a young person, refer the young person to a child welfare agency for assessment to determine whether the young person is in need of child welfare services.

### ***The Alberta Adult Interdependent Relationship Act***

The Alberta Adult Interdependent Relationship Act amended several Alberta laws for people in unmarried relationships that involve economic and emotional interdependence.

Adult interdependent partners are defined as sharing one another's lives, being emotionally committed to one another, and functioning as an economic and domestic unit.

To be considered adult interdependent partners, one of the following must be true:

- The adults must be living in an interdependent relationship for a minimum of three years;
- There is permanence in the relationship;
- The adults live in or intend to live in an interdependent relationship and have entered into a written adult interdependent partnership agreement.

### ***Family Support for Children with Disabilities Act (FSCDA)***

The FSCD program is based on the FSCDA and is administered by the Ministry of Human Services. It provides a wide range of supports and services for children with disabilities

and their families/guardians, identifying the type of supports that are needed and what services will be most helpful.

The services provided are based on each child's individually assessed need and family circumstances, and can take two forms.

- **Family support services** are primarily based on the family's needs in caring for a child with a disability, and may include:
  - Information, referral and co-ordination supports, counselling, respite services, assistance with some of the costs associated with attending medical appointments (transportation, parking, meals, accommodations and sibling care) and extraordinary clothing costs related to the child's disability.
- **Child-focused services** may be provided when the child's disability results in significant limitations in their daily living activities, and may include:
  - A range of respite services, aide supports, child care supports, health-related supports, specialized services for children with severe disabilities, and out of home arrangements where in-home supports are not able to fully address the child's and family's needs.

Children with disabilities and their families may receive supports and services through **both** Child Intervention Services (CIS) and the FSCD program areas at the same time providing that the appointed guardian maintains full guardianship responsibilities.

### ***Freedom of Information and Protection of Privacy Act (FOIP)***

FOIP sets out the parameters for obtaining access to records of public bodies, including exceptions to disclosure, third party intervention rights, and protection of public health and safety. It also sets out the parameters for the collection, use, and disclosure of personal information and defines the powers of the Information and Privacy Commissioner and the process for handling complaints.

The basic objectives FOIP are:

- To ensure that public bodies are open and accountable to the public by providing a right of access to records; and
- To protect the privacy of individuals by controlling the manner in which public bodies collect, use and disclose personal information.

FOIP does not apply to records that are available outside the Act, such as records based on information in a registry, court records, and certain records of judges and persons exercising similar powers, including their personal notes and draft decisions.

## ***Indian Act***

The federal Indian Act was passed in 1876 combining all policies affecting Indians and outlining the responsibilities of the federal government, which were first established in the British North America Act of 1867.

The Indian Act has been reviewed and amended, most significantly in 1985 with the introduction of Bill C-31. Bill C-31 brought the Act into line with the provisions of the Canadian Charter of Rights and Freedoms. Three principles that guided these amendments were:

- The removal of discriminations;
- Restoring status and membership rights; and
- Increasing control of Indian bands over their own affairs.

The CYFEA references the Indian Act for assistance in:

- Defining Aboriginal (to include Indian, Métis and Inuit);
- Determining if a child has status;
- Involving the First Nation Designate in planning for band children; and
- Adoption legislation and policy regarding Aboriginal children.

## ***The Mental Health Act***

The Mental Health Act establishes the services provided by Alberta Health Services, which include in-patient and ambulatory care services, approved homes, independent living support, crisis services, resource and drop-in centres, group homes, psychotherapy programs, children's assessment and treatment services, assertive community outreach, consumer and family self-help groups, crisis stabilization, community clinics and vocational, recreational and day programs.

Mental health counsellors are often an integral part of service to children, youth and families, and need to be included in case planning when appropriate.

## ***Personal Information Protection Act (PIPA)***

The PIPA establishes clear, concise rules for private sector organizations when collecting, using and disclosing personal information.

## ***School Act***

The School Act sets out the services provided by the Department of Education.

- Children who are six years of age by September 1<sup>st</sup> in a year and children who are younger than 19 are entitled to attend school.
- Children who are six years of age by September 1<sup>st</sup> in a year and younger than 16 years of age are required to attend school (compulsory education);
- The Attendance Board has similar power to the Court of Queen's Bench when holding hearings.
  - Guardians need to be able to work collaboratively with the school systems in order to meet children's educational needs.

## Part VI: Glossary of Terms

### *For Participants*

Ad litem	Ad litem is Latin, meaning, “for the lawsuit”.
Affidavit	A written statement of evidence given by a person who swears to its accuracy before a person who has the authority to take such oaths. As opposed to vive voce evidence which is evidence given orally.
Amicus Curiae	Latin meaning “friend of the court”.  A person who is not a party to the proceedings but wants to offer an independent position about the case.
Bar	The membership of lawyers licensed to practice law in a specific jurisdiction. When lawyers are given a license to practice law in a specific area, they are “called to the bar” or “admitted to the bar”.  It is also the physical partition or separation in the courtroom of the general public from the judge and lawyers.
Bench	The composition or collective of all the judges of a particular level of court.  Where the bar is a group of lawyers, the bench is a group of judges.  Also the physical place where the judge sits.
Case law or Common law	The term "case law" or "common law" refers to judge made law.  When judges make decisions about the law and what it means, their decisions are binding on lower courts.  Case law can have just as much effect on practice as legislation does.  This means decisions from the Supreme Court of Canada must be followed by all the courts in Canada; decisions of the Alberta Court of Appeal must be followed by all the courts in Alberta; and decisions of the Alberta Court of Queen's Bench must be followed by all the Provincial Courts of Alberta. While decisions of the Provincial Court are not binding, they are often followed by other Provincial Court Judges.
Chambers	Originally, a room in which professional persons conducted business; most

	common reference now is to the Chambers of a Judge, signifying privately or not in public.
Consent	A voluntary agreement by a person who has the capacity to make an intelligent choice about the thing being proposed by another.
Criminal Code of Canada (C.C.C.)	<p>A Federal statute sets out most Canadian criminal offences and many of the procedures used to prosecute those offences.</p> <p>It establishes the criminal law of Canada.</p>
Commissioner for Oaths	<p>The person who administers an oath or affirmation for someone else who is completing an Affidavit or a Statutory Declaration.</p> <p>If J wants to swear or affirm an Affidavit, (s)he will need B, who is a Commissioner, to administer the Affidavit for her.</p> <p>Caseworkers are asked to become a Commissioner for Oaths.</p>
Cross examination	The questioning of a witness at trial by the opposing party or their legal counsel.
Direct examination	<p>The questioning of a witness at trial by the party or lawyer who called them.</p> <p>Also called Examination in Chief.</p>
Dismiss	To remove a case from court or to terminate a case before trial.
Docket	A list of cases on a court calendar.
Et Al	Latin abbreviation of Et Alia meaning “and others”.
Expert Witness	An expert witness gives evidence based on skill or knowledge obtained through training and experience in a field.
Evidence	<p>Means by which any allegation is proven true or false.</p> <p>Corroborative Evidence is that which confirms, by independent testimony, the evidence of another witness.</p> <p>Expert Evidence is that given by a person agreed to be well skilled in their trade</p>

	or profession and therefore entitled to give their opinion to the court.
Ex Juris	Service Ex Juris is where legal notice of an upcoming proceeding is given to a defendant who resides outside of the jurisdiction of the court.
Ex Parte	<p>Latin meaning “from one party”.</p> <p>An application made by one party to the proceeding in the absence of the other party.</p>
Guardian	<p>Generally, a person who is chosen or appointed to take care of another person who cannot manage their own affairs or property.</p> <p>Also a person who is under legal duty to provide for the necessities for a child.</p> <p><b>Guardian Ad Litem</b>, a party appointed by a court to act in a lawsuit on behalf of another party such as a child or an incapacitated adult.</p>
Habeas Corpus	<p>Latin meaning, “you have the body.”</p> <p>A procedure for obtaining a judicial determination of the legality of an individual’s custody.</p>
Hearsay Evidence	Oral or written communications made by someone other than one of the witnesses at trial, and therefore not subject to cross-examination.
In Camera	<p>Latin meaning, “in chambers”.</p> <p>A matter heard in a judge’s chambers, or in a courtroom where all spectators have been excluded.</p> <p>This is commonly called a “closed” courtroom.</p>
In Loco Parentis	<p>Latin meaning “in the place of the parent”.</p> <p>A person acting on behalf of or instead of a natural parent and charged with the duties and obligations of a parent.</p> <p>Often used for the purposes of child support.</p>
Judge	A public officer invested with authority to hear and to determine civil and criminal cases, and to administer justice to parties in court.
Legal Aid	A legal organization which, under government grant and some volunteer work by lawyers, provides legal services to those who cannot afford it.

Legislation	<p>Refers to Statutes and Regulations, which are created by the provincial and federal governments through the democratic process.</p> <p>Federal laws govern the entire country, whereas Alberta laws only have effect in Alberta.</p>
Liability	<p>An obligation to do or refrain from doing something.</p> <p>A duty that must eventually be performed.</p>
Litigant	A person engaged in a law suit.
LRCY - Legal Representation for Children and Youth program.	LRCY is one of the services provided by the Office of the Child and Youth Advocate and is responsible for the appointment of lawyers for children and youth receiving services under the CYFEA or PSECA.
Minor	A person who is below the age of adulthood according to statute.
Oath	<p>An affirmation of the truth of a statement.</p> <p>If a statement is given after an oath and is known to be false, that person can be charged with perjury or other criminal offences.</p>
Offence	<p>Any crime or punishable act, or omission.</p> <p>All criminal charges in Canada are categorized as either indictable or summary and the procedures for each can be different.</p> <p>Indictable Offence is a more serious criminal charge.</p> <p>Summary Offence is less serious and carries a lesser penalty.</p>
Office of the Public Guardian (OPG)	Provides decision-making mechanisms for individuals who are unable to make personal non-financial decisions for themselves.
Office of the Public Trustee (OPT)	Protects the financial interests of vulnerable individuals by administering the estates of dependent adults, deceased persons and minors when there is no one else to act.
Parens Patriae	Latin meaning, “parent of the country”.

	Refers to the inherent power of a Queen's Bench or Court of Appeal Justice to deal with matters involving persons under disability, including children.
Plaintiff	From the old French meaning, "mournful" or "making complaints".  The person who commences a suit before the court.  Also called the applicant.
Plea	The answer of the defendant to the charge.
Preliminary Hearing	A hearing before a Provincial Court Judge to decide whether or not there is enough evidence to formally commit the accused to stand trial.
Prima Facie	Latin meaning, "at first sight".  A Prima Facie Case is one established by sufficient evidence and will prevail in the absence of contradictory evidence.
Private Guardianship	Private guardianship is a way that a caring adult can make a permanent commitment to raise a child when that child's guardian cannot.  Seeking private guardianship means agreeing to assume all the responsibilities of a guardian in respect to the child.  To become a guardian, one must apply to the Court for a Private Guardianship Order.
Privileged Communications	Statements made by certain persons within a protected relationship, such as between a lawyer and client, that the law protects from forced disclosure.
Probation Quash	Latin meaning, "to annul" or "to destroy".  To set aside or to make void and powerless.
Quasi-Criminal	A proceeding that although not criminal prosecution is sufficiently similar in terms of grievous loss that it warrants some of the special procedural safeguards of a criminal proceeding.
Respondent	The person against who an application or an appeal is brought.  Similar to a defendant.
Retainer	The appointment of a lawyer to take or defend a proceeding on behalf of a

	<p>client.</p> <p>Also the amount of money paid from the client to the lawyer to defend the case.</p>
Search and Seizure	A police practice where a premise is searched and property is seized that may be pertinent in the investigation and prosecution of a crime.
Search Warrant	An order issued by a court authorizing certain persons to search houses or other places.
Service	<p>Delivery of a notification against the defendant or respondent of a court proceeding.</p> <p><b>Personal Service</b> is delivery of the notice directly and in person to the party being served.</p> <p><b>Service Ex Juris</b> is when legal notice of an upcoming proceeding is given to a defendant who resides outside of the jurisdiction of the court.</p> <p><b>Substitutional Service</b> is delivery of the notice by other than personal service and can be any variety of means.</p>
Sine Die	<p>Latin meaning, “without a day”.</p> <p>An adjournment of a matter without the court appointing the next appearance day.</p>
Status Quo	<p>Latin meaning “the state in which”.</p> <p>To leave things as they are now.</p>
Subpoena	<p>Latin meaning, “under penalty”.</p> <p>A written court order commanding a person to attend court, failure to do so may result in a penalty.</p>
Summons	To notify a defendant through the authority of the court to appear at a place specified in person.
Testimony	<p>Latin meaning, “to make witness”.</p> <p>A statement made by a witness, under oath, at trial in relation to an issue at trial.</p>
Trial	The examination of a case, civil or criminal in controversy between two parties before an authorized court.

Verdict	<p>Latin meaning “is a true saying”.</p> <p>The formal decision or finding made by a judge or a jury concerning the questions submitted to it during a trial.</p> <p>The jury reports the verdict to the court, which generally accepts it.</p>
Versus	<p>Latin meaning “against”.</p> <p>Usually seen in its abbreviated form, “vs.” in the style of cause where the plaintiffs name is put first followed by vs. and then the defendant’s name.</p>
Vive Voce Evidence	Evidence that is given orally.
Waive	<p>Latin meaning, “to relinquish”.</p> <p>Not insisting on some right or claim of privilege.</p> <p>Also to transfer as in Waive a matter to another court.</p>
Warrant	<p>From the old French meaning, “to give heed” or “to protest”.</p> <p>A court instrument ordering a judicial act (arrest, search, etc.) to be executed by the officers of the court.</p>
Witness	<p>From the old English meaning “to know”.</p> <p>A person who gives evidence in a proceeding before a court.</p>
Young Offender	A person who is charged with having committed a criminal offence when they were between the ages of 12 and 18 years.
Young Person	A person who is, or in the absence of evidence to the contrary, appears to be twelve years of age or more but under eighteen years of age.
Youth Court	A court established under a Provincial Act for the purposes of hearing the charges of young offenders.

## Part VII: References and Other Resources

### *For Participants*

#### *Websites*

- Alberta Association of Services for Children and Families (AASCF)
  - <http://www.aascf.com/ResourceLibrary/OBSD> or
  - <http://www.aascf.com> Type in a word in the search box i.e. “AASCF Journals”, “AASCF-OBSD Newsletter”, “supervision”, “OBSD” and a number of resources will be identified
- Alberta College of Social Workers
  - <http://www.acsw.ab.ca>
- Alberta Courts Information
  - <http://search.albertacourts.ca> (Alberta Courts website with search tab highlighted; other tabs include Court of Appeal, Court of Queen’s Bench, Provincial Court and Court Services)
  - <http://justice.alberta.ca/Pages/home.aspx> (Alberta Justice and Solicitor General home page with link to Alberta Courts home page provided)
- Alberta Human Services, Enhancement Policy Manual: Intervention (Revised June 15, 2012)
  - <http://www.child.alberta.ca/home/documents/childintervention/EnhancementActPolicyManual.pdf>
- Canadian Association of Social Workers
  - <http://www.casw-acts.ca>
- Canadian Civil Liberties Association
  - <http://www.ccla.org>
- Department of Justice Canada
  - [http:// www.laws.justice.gc.ca](http://www.laws.justice.gc.ca) (The Law Site – This page allows you to search Canada’s consolidated statutes and regulations)

- Freedom of Information and Protection of Privacy Act (FOIP)
  - <http://www.servicealberta.ca/foip/>
- Personal Information Protection Act (PIPA)
  - <http://servicealberta.ca/pipa>