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the voice of child welfare in Ontario, dedicated to providing leadership for the achievement of excellence in the protection of children and in the promotion of their well-being within their families and communities.



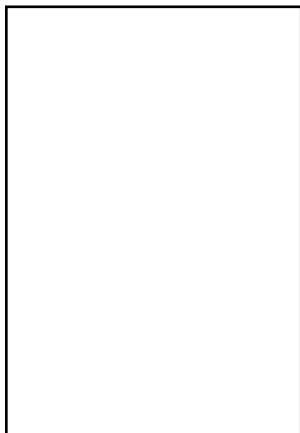
Claire and Philippe Edmonds are the Children of Genevieve Edmonds, French Language Services Co-ordinator at OACAS.

- the *journal* is a major Ontario source of information for children's services professionals
- the *journal* is published quarterly
- national library of Canada ISSN 0030-283x
- publications mail registration No. 1342835
- the *journal's* circulation is 7,500 and growing
- notice of change of address, subscription orders and undeliverable copies should be sent to:

**ontario association of children's aid societies,
75 front st. e., 2nd floor,
toronto, M5E 1V9**

Opinions expressed in the *journal* are those of the authors and not necessarily those of the Ontario Association of Children's Aid Societies





Message from OACAS Executive Director Jeanette Lewis

The Fall has been characterized by a focus on Government relations and Advocacy for funding for OACAS members. To that end, I have been involved in meetings with Ernie Hardeman, Parliamentary Assistant to Minister Brenda Elliott, with John Fleming, Deputy Minister, with Cynthia Lees, ADM Program Management, with Peter Rzakki, ADM Integrated Services for Children, with Lucille Roch, Program Lead - Child Welfare Program Review/Evaluation, with Suzanne Hamilton, Director of Child Welfare and Young Offenders, with Dan LaFranier, Acting Director, Community Programs and Divisional Support Branch, and with Anna Esselment, Policy Analyst, Office of Dalton McGuinty.

A primary concern in these meetings with government representatives has been our continued advocacy on behalf of members with respect to key deficit areas identified by agencies: boarding rates, legal, travel and salary expenses. We continue to seek commitment from the Ministry with regard to sustained funding for the **Looking After Children** project. As well, we are working with Ministry representatives to more clearly ascertain what are the terms and expectations of the Program Evaluation being conducted by Lucille Roch for the Ministry.

I have also met with representatives of the Foster Parent Society of Ontario in October. Foster parents strongly endorsed the advocacy efforts on behalf of transition-age youth who often have no supports after

leaving care and must manage on their own resources. They also expressed their support of strong local Foster Parent Associations and indicated a concern for the Province's potentially overly-restrictive "do not touch" philosophy which is emerging as a response to improper use of physical restraints in group home facilities.

We have followed closely the Inquest for Stephanie Jobin and its recommendations. Any death of any child is to be greatly lamented, and the children in the care of CASs require our particular efforts to ensure that their placements are safe and nurturing. Inquests are the unfortunate aftermath of a failure to protect a child, but they may also help to point out new directions for the prevention of another such loss. Marv Bernstein has written for this *journal* issue, an article clarifying the nature of inquests and addressing the possible roles for the OACAS in assisting members or in participating at an inquest.

The OACAS is proceeding with its efforts to advocate for children before the Supreme Court of Canada when it hears the Appeal regarding the constitutionality of section 43 of the Criminal Code. This is the section of the Criminal Code that justifies the use of corporal punishment by parents and teachers as a means of correcting behaviour. This is a unique and exciting opportunity for OACAS to engage in advocacy for the dignity and best interests of children. It is the position of the OACAS that no form of corporal punishment is ever justifiable.



What are the products of the Ontario Risk Assessment Tool?

By Bruce Leslie and Brian O'Connor

Implementation of the Ontario Risk Assessment Model (ORAM) was considered an urgent priority of Child Welfare Reform and was introduced in practice across the province in 1998. In the context of moving to implement provincial standards for child protection cases, this model introduced three new clinical instruments - the Eligibility Spectrum, the Safety Tool and the Risk Assessment. These tools were in part constructed to guide decision-making in child welfare cases at key points, to improve the consistency of those decisions, and, thereby, increase the safety and protection of children in the province. The detailed and structured nature of the Risk Assessment Model was originally conceived to support a more informed and balanced process of assessment and service planning. The proper use of these tools involves a series of highly complex tasks including the analysis and synthesis of many diverse factors.

Although these three parts of the Risk Assessment Model are inter-related, perhaps the greatest expectations were associated with the Risk Assessment Tool in terms of direct benefits for children. One of the most highly anticipated outcomes expected with introduction of this tool is the reduction, if not elimination, of repeat incidents of child maltreatment. Another key element is its expected capacity to assist in the prediction of future maltreatment of children in protection cases, where there is a previously maltreated child.

Since its implementation, practitioners and managers have gained experience and insight into the impact of the Risk Assessment Tool on practice and service, both positive and

problematic. Questions have been raised about its effectiveness, workload implications and its effect on casework. Some of the concerns center on the ability of the Risk Assessment Tool to achieve its main objective of predicting maltreatment, especially without development of other organizational and work environment supports. Questions have also been asked about how the tool is used in practice and whether the data produced is informative and useful.

This paper is a compilation of the results from several exploratory studies completed at the Children's Aid Society of Toronto designed to answer some of the questions raised about the Risk Assessment Tool, clarify characteristics of the information produced by front-line workers using the Tool, and examine the usefulness of information created for both program development and facilitating casework interventions.

Risk Assessment Tool Factor Ratings

The 22 factors in the Ontario Risk Assessment Tool are rated individually and then consolidated into an "Overall" rating. Each of the 22 factors highlight characteristics of a child, caregiver and/or family life that has previously been found in association with child maltreatment by practitioners and researchers. The accumulated comments and ratings made with each factor are usually based on a mixture of objective and subjective measures related to the anchor descriptors for each factor, incorporating direct observation, interview material, client reports, and information from collaterals. In creating the

"Overall" rating, workers summarize their individual factor assessments forming one inclusive risk rating. Risk assessment in the context of child welfare services involves the identification of factors associated with re-abuse and child maltreatment and the determination of the degree of influence these factors will have in contributing to the assessed level of risk.

The Children's Aid Society of Toronto (CAST) first introduced a Risk Assessment Tool in 1996 that was somewhat similar in form to the provincial tool, both instruments being based on the "New York State" model. CAST is fortunate to have had its Risk Assessment data computerised from the outset, thereby facilitating analysis and the productive use of this information at an organizational level. The child and family profile data produced is appreciated by front-line workers and managers. As part of its information dissemination and utilization strategies, the Risk Assessment scores have been reviewed annually to provide client profile information, insight into the use of the tool, and to identify opportunities for service and program development.

Once a year through the period 1997 to 2001, the aggregated Risk Assessment rating data for all open Family Services cases at CAST was reviewed. A once per year time frame for comparison was chosen in consideration of the frequency with which workers complete Risk Assessments and client patterns tend to change. Intake cases were excluded because in most instances they do not have a completed Risk Assessment. In each of the five years, there were approximately 2000 to 2400 cases included in the review sample.

In considering the findings presented below it is important to keep in mind three characteristics of the data. Firstly, the cases reviewed were examined at various points in time through the "life of the case"; some were being assessed

almost at opening; some six months later; and some after two years of service. Cases that are assessed at opening are most often assumed to be in a greater state of risk and crisis. Cases being prepared for closure are generally assumed to show less risk. Secondly, regardless of length of opening, the case type and activity dimension must also be considered; some cases could involve a new investigation, a child admission, a severe physical abuse, or a moderately severe parent/child conflict. Thus, these cases represent a multi-dimensioned sample of child welfare cases. Thirdly, it is also important to keep in mind when interpreting these findings that the meaning of risk attached to the ratings and the implications of different levels for each factor are not those that are in common usage. In a general sense, all cases at CASs are sometimes considered to involve children at great risk, immediately, or, in the near future, or, as a result of prolonged exposure to accumulating risks. Use of the term "moderate risk" as a scale descriptor is not considered in any normal, everyday sense of the word in general usage. For communication purposes, a more normalised diagnostic frame in terms of identifiers has been used in the Risk Assessment Tool.

Overall and Individual Factor Risk Ratings and Child, Caregiver and Family Characteristics

Overall Ratings Highlights

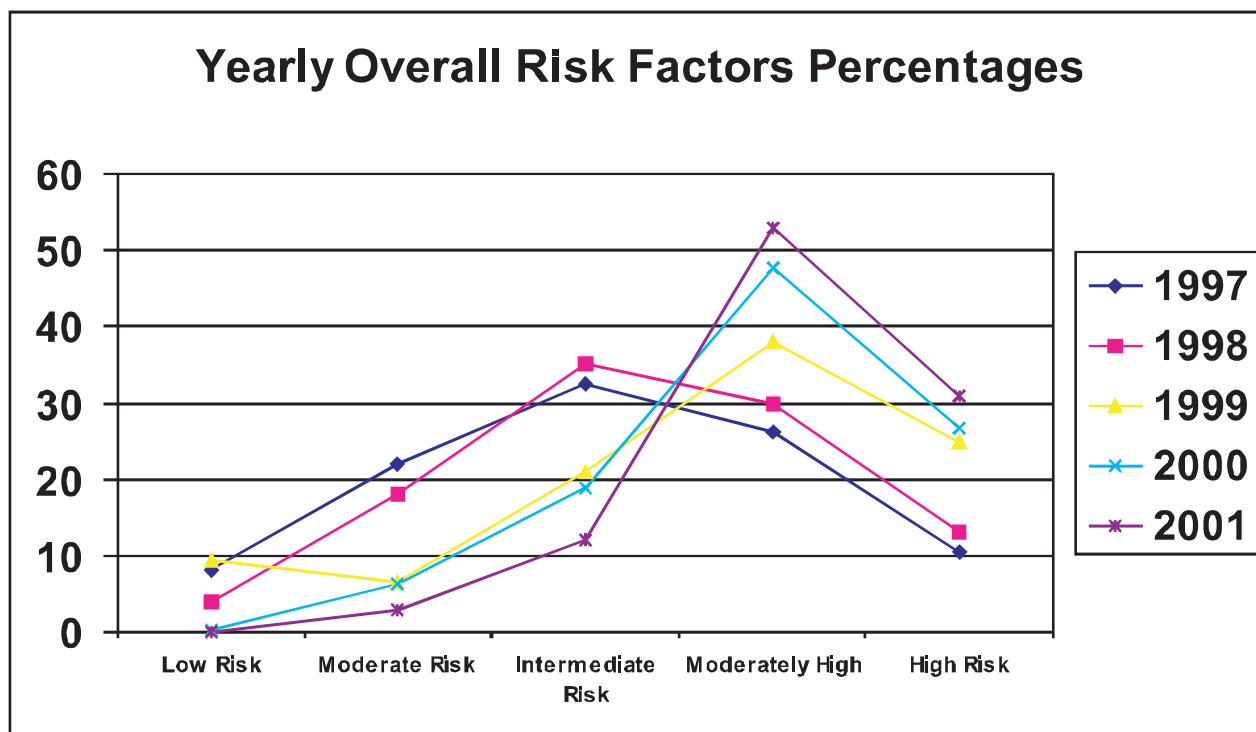
The following table and chart show the "Overall Risk Rating Percentages" for Family Services cases (excluding Intake) for each of the five years, 1997 to 2001, at one point in time through the year. The aggregate ratings reported here are based on the caregiver and the child with the highest ratings. The data for 1997 and 1998 are based on the Risk Assessment Tool developed at CAST prior to the introduction of the version that forms part of ORAM.



Overall Risk Factor Rating Percentages

	Low Risk	Moderate Risk	Intermediate Risk	Moderately High	High Risk
1997	8.0	22.0	32.6	26.2	10.5
1998	4.0	18.0	35.0	30.0	13.0
1999	9.5	6.5	21.0	38.0	25.0
2000	0.3	6.4	18.8	47.7	26.7
2001	0.1	3.0	12.0	53.0	31.0

Yearly Overall Risk Factors Percentages



The above noted changes in the Overall Risk ratings are not to be understood as solely representing a tremendous increase in the numbers of children and families in the community at higher levels of risk. Discussions with staff and supervisors reveal this to be a multi-determined finding. Firstly, as workers have become more familiar with the risk constructs in the tool and their relation to practice, there has been an increased understanding of risk assessment in this format and a growing sensitivity to risk assessment features, culminating in more children and families being identified as "high risk".

A second influential perspective identified in relation to the trend towards more overall high risk ratings is that the introduction of the Ontario Risk Assessment Model as part of Child Welfare reform in 1998, following the coroner's inquests, heightened concerns about risk and sensitivity to risks. In conjunction with the introduction of ORAM and its educational emphasis on key assessment features of potential harms to children, the inquests amplified the importance of not underestimating the risks.

Thirdly, changes in various aspects of the definition for finding a child in need of protection from "substantial risk for a child to be in need of protection" to "risk that a child is likely to be in danger of maltreatment" have broadened the understanding of risk and increased the relevance of certain family features in the assessment of risk (for example, neglect and emotional abuse). The threshold for the assessment of harm, relevant to child protection has been effectively widened and at the same time lowered.

Fourthly, the increased awareness of child welfare risks and more encompassing definitions of a "child in need of protection" have resulted in an

increased recognition and perception of risks by other professionals and community members. CFSA amendments in 2000 also strengthened the "duty to report" for professionals. These developments suggest the possibility that more families are being referred to CASs than previously at higher levels of risk.

In combination, these four identified influences are seen to increase the probability of children being found at risk and the likelihood that they would be found at higher risk now than might be the case some years earlier. A fifth possibility is that there are simply more families with children at higher levels of risk.

These exploratory study findings have three main areas of import:

- 1) They do not support assumptions (noted above) about cross-sectional samples with a mixture of new, recently open cases and cases moving towards closure having a varied profile of risk. The cases sampled seem to portray high levels of risk throughout the life of a case.
- 2) The trend towards more risk ratings being made in the higher level categories has continued, while the number of cases rated "Low Risk" overall has declined substantially, to almost zero. One implication of this distribution is that the Risk Tool (and how it is being used) is losing sensitivity to the various levels of overall risk - 84% of cases are rated in the two highest risk categories.
- 3) These findings are also of concern because there are now more families receiving service in the recent samples of cases reviewed; thus, there are more families with children at higher levels of risk. The latest sample included 2382 families as of October 5th, 2001, whereas earlier samples ranged closer to 2000 families.



Individual Factor Ratings Highlights

Service data generated by the 22 individual factors that comprise the Risk Assessment Tool have been compared on an annual basis since 1997. The information describes children and families served by CAST taken from the anchor descriptions for the different levels of risk identified for each factor. The findings clarify some of the types of situations and experiences that support the identification of children at risk and in need of Child Welfare Services, as seen at CAST over this five-year period.

These individual factor ratings in many respects replicate the trend shown by the "Overall Risk Rating" towards higher risk ratings, however they do show more variations and less dramatic increases. These aggregated ratings based on over 2000 families in each of the years examined provide insights into the many pressing issues and problems faced by the children, caretakers and families served by CAST. This information can also be used to support program development and service partnerships. The following highlights capture some of the trends reflected by ratings in the associated factors cited here:

- * The percentage of children injured or at risk of harm remains high (at least one child in a family rated as such) - most recently 78% of cases (factor A3).
- * The quality of the parent child relationships appears to be deteriorating in many families (factors C2, CG3, F5).
- * The incidence of family violence and the consequent risk of emotional abuse are shown to be increasing (factor F1, some incidences of domestic violence increased from 22 to 38% of families).

- * A significant increase in parents /caretakers being identified with impediments to problem solving skills has been noted - from 52 to 72% of cases (factor I1). This is especially concerning when considered in conjunction with the greater lack of cooperation with interventions identified - increased from 27 to 38% of families (factor I2, "resistance to intervention").

Risk Ratings and Casework Decisions

1. Family Service Cases with Children-in-Care

To further understand how front-line workers are using the Risk Assessment Tool in action, a series of studies were designed to examine risk ratings in relation to different casework decision points. One such study focused on ratings for family service cases that, at the time of the study, had at least one child admitted to care compared to those for cases that did not have a child in care.

For the purposes of this analysis, the five levels of risk outlined in the scales were collapsed to form a simplified version with two alternatives for each factor - high or low risk. The results reflected the expected change in risk ratings for cases without an admission in comparison to those with an admission (from lower to higher). These changes in risk ratings support the anticipated decision weighting processes in relation to serving higher risk children and staff's 'correct' use of the tool. Not all children and families with high-risk ratings are expected to have an admission, but cases involving admissions are usually considered higher risk. For all 22 factor ratings, Family Services cases with "Children in Care" had a larger percentage of "high" ratings in comparison to "No children in care" family cases.

Another aspect of this study revealed that three of the 22 factors - "Ability to cope with Stress", "Abuse/Maltreatment of Caretakers as Child" and "Intent and Acknowledgement of Responsibility"- were identified as a cluster of factors, which appeared influential in the decision to admit a child. These three were amongst the factors most frequently rated high risk for "Children in Care" cases and showed the greatest increase in the percentage of high-risk ratings, when comparing "No children in care" cases to "Children in Care" situations.

2. Overall and Individual Risk Factor Ratings

A second study examined the relationships between workers' ratings for individual factors and their "Overall" case rating. The Risk

Assessment Tool directs workers to consider the individual ratings in an interactive fashion and estimate the combined impact of these factors when deciding on the "Overall" rating. There is no prescribed formula and workers are expected to use their professional judgement in creating this overall rating based on the individual ratings. In part, this guideline anticipates that the "whole would be greater than the sum of the parts" for the Overall rating based on the worker's clinical judgement.

The chart below highlights the "Overall Risk" ratings distribution taken from the most recent data collected, October 2001, and compares them to the distribution of risk ratings for individual factors (on which the "Overall Risk" is based), in each of the five risk levels.

	"Overall Risk"	Individual Factor Summary
Risk Rating		
Low Risk	0.1%	31%
Moderate Risk	3%	16%
Intermediate Risk	12%	22%
Moderately High Risk	53%	21%
High Risk	31%	11%

This data reveals that for the 22 individual factors assessed, 11% were rated high risk, whereas for those same families, 31% were assessed as being high risk "overall". Such a finding characterizes the difference in high-risk rating levels when comparing individual factor to the overall ratings. The "Overall" risk ratings of front-line Family Service workers in this summarized form are higher than the risk profile portrayed by the individual factors, on which they are based. The "Overall" rating in this analysis seems to reflect greater concern based on the summation of the individual factors, their overlapping implications and concerns about possible interaction between the individual factors.



Feedback and Staff Commentary

In addition to the more quantitative analysis presented above, feedback and comments were solicited and received from staff to determine other effects of the Risk Assessment Tool in practice. The following issues were identified in discussions with front-line workers and supervisors:

- ORAM has focused attention and intensified front-line work on the assessment part of casework processes, but, given the resulting increase in related work, an imbalance appears to have been created because of less time available to develop and carry-out interventions. ORAM has increased the sensitivity of 'engine' components driving the child welfare system without fully appreciating the consequences at the client-worker, caseload and organizational levels. It has dramatically affected workload by increasing the time needed to carryout related activities and leaving less time for other essential casework activities.
- Use of structured tools like the Risk Assessment prescribed in ORAM could be potentially interfering with joining strategies and complicating the production of a shared worker - client understanding of the presenting problems. The ORAM prescribes 'acceptable for service' problems and anything the client says has to be screened through appropriate filters.
- Concerns have been raised with the RA Tool as a result of its heavy focus on child protection and personal problem areas for caregivers, with less emphasis on child well being and parenting. This focus on stressors rather than resources is viewed as providing an unbalanced profile with regards to child protection.

- One of the identified weaknesses of the RA Tool is that it heavily focuses on deficits in individual caregivers. Broader environmental, social/economic influences such as poverty and availability of housing are not highlighted, although such factors are clearly recognized within the field as contributing to risk. Issues like poverty are more often conceptualised, not within the context of economic and social conditions, but as an individual failing that presents a risk to children.
- The RA tool provides a useful reminder system, especially for new workers. The structured nature of the tool provides a clear guide to shape assessments and convey the results to others.
- The focus for intervention as influenced by the RA Tool appears to be moving away from child well being and in the direction of risk management.

Summary and conclusions

Based on the information presented above, there appears to be some accumulated evidence in the areas under study that front-line workers are using the Risk Assessment Tool according to expected practices. Descriptive documentation of families is achieved, revealing characteristics of children and families and their assessed risk level based on this structured format. There is increased clarity about assessments: consistency in decision-making and accountability has been facilitated.

The data produced by workers also reflects changes in risk ratings in accord with some expected case and practice decisions. In the two examples described above, workers were utilizing the Risk Assessment Tool to support casework decisions appropriately in relation to the admission of children to care and the determination of an "Overall" risk rating.

There are, however, some clear limitations to the results provided here and many areas need further study to confirm that the Risk Assessment Tool is a reliable and valid guide to clinical judgments, especially in relation to its predictive capabilities. Moreover, as much as the Risk Assessment Tool appears to be supporting best practices in a number of areas, there are still many difficulties voiced by staff and a need to examine not only the psychometric characteristics of this tool but its contextual and organizational influences in practice, in addition to its effectiveness as an aid to reducing harm to children.

Furthermore, although there appears to be some support for the Risk Assessment Tool as an aid to child welfare staff in their deliberations about case planning, there are concerns about its 'cost-effectiveness' in its present form for children and families and child welfare services. There is no clear evidence that this tool is reducing the number of re-abused children and its implementation has had a major impact on front-line workers time and casework practice.

The only formal, provincial evaluation of the ORAM has focused on the initial implementation of the model and training. An impact evaluation of the ORAM on practice has been proposed but not completed.

The completion of an accurate risk assessment within the present ORAM framework requires a series of complex strategies, extensive information gathering, commentary and analysis. Whether or not a simplified assessment format and process would be able to achieve the desired outcomes is not clear from the studies carried-out at CAST. There is some evidence from this work that a reduced number of factors with a smaller number of scale decision points could also produce many of the desired outcomes and thereby reduce the assessment time.

The limited evidence presented here in support of changes to the risk tool would need to be further explored and developed to substantiate the move to a more streamlined model for risk assessment.

About the authors

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The Nature of the Inquest Process and the Role of the OACAS

By Marvin Bernstein

Introduction

As inquests involving Children's Aid Societies seem to be occurring with greater frequency, it is important to examine the nature of an inquest and how it differs from other forms of court proceedings. Once this is understood, it is then also important to consider how the role of the OACAS fits into the inquest process and can be of assistance to member agencies.

Nature of an Inquest

As a starting point, the term "inquest" is defined in the tenth edition of the Concise Oxford Dictionary as meaning "an inquiry by a coroner's court into the cause of a death." Interestingly enough, an inquest is an English invention, which has been adapted and implemented in Canada. The inquest process is, however, foreign to most jurisdictions, including the United States.

A Coroner's inquest is not a trial and is not conducted in order to find fault. An inquest is designed to protect the living by preventing similar deaths in the future.

An inquest is a formal public hearing into the events surrounding a death or deaths, attended by a jury, where subpoenaed evidence is heard. Individuals, agencies, associations, organizations, corporations and government Ministries can apply for, and obtain, standing where the applicant is found by the Coroner to be "substantially and directly interested" in the inquest.

On the basis of an inquest's findings, the jury involved usually presents a number of

recommendations. The Coroner will then pass on the inquest jury recommendations to the appropriate groups and individuals, including the public agencies, institutions and ministries of various levels of government. The Coroner will later monitor the various responses to these recommendations.

Differences between an Inquest and Ordinary Civil or Criminal Proceedings

There are numerous differences between an inquest and ordinary civil or criminal proceedings. They are:

- The Coroner, who presides over the inquest, is a medical doctor and not a judge
- In a civil or criminal proceeding, the lawyers participate in the selection of the jury. In an inquest, they have no such input
- The five members of the jury are permitted to ask questions of the witnesses testifying. This active form of jury participation does not exist in any other kind of proceeding
- The rules of evidence which apply at a civil or criminal proceeding do not apply at an inquest
- A unanimous decision is not required for a verdict at an inquest, unlike a trial
- There is to be no finding of civil or criminal responsibility, as no one is on trial

- The jury may make recommendations directed to the evidence of death in similar circumstances or respecting any other matter arising out of the inquest
- The role of Crown Counsel at an inquest is that of Counsel to the Coroner and not that of a criminal prosecutor
- At an inquest, there are no parties, in the strict sense of the term, with issues between them. There are only persons with standing
- The process is not adversarial, but rather inquisitorial, with the emphasis being on fact-finding
- There is no formal judgment between any parties, and accordingly, no appeal is possible
- The inquest is open to the public and there is usually a heavy media presence

Answering the Five Factual Questions

Under the Coroner's Act, there are five factual questions that must be answered by the jury at the end of the inquest. Those questions are:

- ❖ Who the deceased was;
- ❖ How the deceased came to his or her death;
- ❖ When the deceased came to his or her death;
- ❖ Where the deceased came to his or her death; and
- ❖ By what means the deceased came to his or her death

In answer to the question of "by what means", the jury has five options, which are as follows:

Accident - Death that is due to an occurrence, incident or event that happens without foresight or expectation

Suicide - Death resulting from an intentional act of a person knowing the probable consequences of what he or she is about to do

Homicide - The action of a human being killing another human being

Natural - Death that is due to a natural disease, or a complication thereof

Undetermined - Inadequate evidence for any classification. Equal evidence, or a significant contest among two or more classifications

The Legal Distinction: Homicide at an Inquest and Homicide at a Criminal Proceeding

There have now been two recent inquests involving CASs, where the Juries have returned findings of "homicide". In this regard, it is important to understand the distinction between a verdict of "homicide" at an inquest and a verdict of "homicide" at a criminal proceeding.

A jury at a Coroner's inquest cannot make findings of legal responsibility. The definition of "homicide" that is used at an inquest is "the action of a human being killing another human being". For example, a police officer who kills a person as a result of discharging his firearm while being in fear for his life, will be said to have performed the act of homicide. However, it may very well be that the officer was acting in self-defence and thus his actions would attract no criminal liability.

There is no definition of "homicide" in the Criminal Code. Any action by a human being that results in the death of another human being is homicide. For a death to be judged "culpable homicide", a number of other factors must be present. These factors do not form part of the consideration of a Coroner's jury.



Jury Recommendations

At the conclusion of an inquest, after the Coroner's Jury has made its findings of fact, it is obligated to make written recommendations for ways in which procedures should change, and in which issues, protocols and sometimes legislation, should be examined to improve systems and prevent further deaths.

Generally, the recommendations that are presented to a Coroner's jury by the parties with standing, must be based on evidence introduced during the course of the inquest, and while it may be tempting to want to seize the opportunity to cure many of the problems in the child welfare service sector, the recommendations must arise logically from both the existing circumstances and the impediments to service delivery, which contributed to the child's or person's death in the particular case.

Recommendations advanced to an inquest jury should be reasonable, practical and doable. They should also, wherever possible, be submitted in writing, so that the jury can easily understand and incorporate the language into their own recommendations. These written recommendations should also, wherever possible, set out a brief statement of the rationale for each of the recommendations, in sequence.

Role of the OACAS in the Inquest Process

While the earlier inquests involving Children's Aid Societies, which were convened after the work of the Child Mortality Task Force, were child welfare systemic inquests in the fullest sense, the inquests, which have been called more recently, have been, and continue to be, inquests that happen to involve a Children's Aid Society.

Having said that, each individual inquest will have its own unique characteristics and will examine the child welfare system to a greater or lesser extent.

The various areas of potential participation by the OACAS in the inquest process are as follows:

- Attending pre-inquest meetings, where appropriate, and understanding the themes and issues, which are likely to be examined at the inquest and then to provide input into the planning process of the member CAS, where appropriate. A corollary point is the need to meet with representatives from the Coroner's Office and develop protocols that could result in the OACAS receiving advance notification of inquests involving CASs and of the relevant pre-inquest meetings
- Seeking standing for the OACAS in those special circumstances where there is a substantial and direct interest in the inquest, with the knowledge and support of the member CAS
- Providing summary communications to the field with respect to the status of an inquest, including an outline of the daily testimony, where available
- Providing or facilitating expert testimony from staff at the OACAS or others in the child welfare sector
- Facilitating the development of a common position or set of recommendations where two or more member CASs have standing or are participating at an inquest
- Providing a list of resource materials that may be of assistance to CASs in preparing evidence related to the systemic problems faced by child welfare agencies

- Providing moral support and encouragement from a provincial organizational perspective when CAS staff are giving testimony
- Assisting a CAS Executive Director and CAS Counsel where they are faced with making strategic decisions that could have province-wide implications
- Providing input into the formulation of recommendations that the member CAS wishes to take to the jury, where so requested
- Providing input into the member agency's response to the jury's recommendations after the completion of the inquest
- Providing a response to the jury's recommendations, where so requested by the presiding Coroner. In such cases, the OACAS should confer with the member CAS and ensure that its response is at least compatible with, and complementary to, the response of the member CAS
- Providing information and experiential knowledge to the CAS Executive Director and CAS Counsel, particularly where either or both of them have not had extensive inquest experience. This could include information regarding the style and expectations of the presiding Coroner; the approaches and degrees of combativeness of one or more of the lawyers, where they have been observed at other inquests; and the effectiveness of potential expert witnesses, who may have testified at other inquests
- Identifying themes and systemic issues that may be consistently arising in a series of inquests. This could lead to training recommendations and different areas of advocacy
- Identifying, summarizing and making accessible all Coroners' Jury recommendations involving CASs. These recommendations are now summarized and can be found in an inquest database, located in the private members' section of the OACAS website. In this regard, the jury, in the Paola Rosales inquest, delivered a recommendation, which provided that "the Ontario Association of Children's Aid Societies publish jury recommendations and disseminate [them] to facilities and agencies"
- Providing information and training to different groups as to what falls outside the normal jurisdiction of the OACAS. For example, in the Jordan Heikamp inquest, the jury delivered a recommendation directed at the OACAS that it "provide assistance in an internal Children's Aid Society's review of serious incidents such as the death of a child. Internal reviews by colleagues are of assistance but require the input of a neutral and critical outside reviewer". Such a role would, however, clearly place the OACAS in a conflict of interest position, since its role is to advocate for its member agencies and to place their positions in the best possible light

Conclusion

There is a need to periodically review the role of the OACAS in the inquest process and to determine what is working well and what needs to be adjusted. To some degree, the extent of the



participation of the OACAS in the inquest process will also be impacted by such variables as the level of experience that the member agency has in this arena, and the time and resources available to OACAS staff.

Further, in light of other bodies, such as Justice for Children and Youth and the Office of Child and Family Service Advocacy, recently seeking standing and taking a more active role in designated inquests involving CASs, there is a

need for the OACAS to likewise examine and delineate those exceptional circumstances, which would cause it to seriously consider seeking standing at a particular inquest.

About the author

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Circles: The Shape of Things to Come

By Tom Berry

"When I came here tonight I wanted to tear a strip off these young people. After getting a chance to tell my story and hear what they had to say I don't feel that way any more." So stated the elderly woman to the twenty-four people assembled to discuss an upsetting string of local thefts. In attendance were the facilitator, the accused youths and their parents, the victims and their supporters, and members of the Huntsville detachment of the Ontario Provincial Police. The "Community Justice Circle" process had helped resolve another conflict.

In March 1997 Family, Youth and Child Services of Muskoka (FYCSOM), the District's integrated child protection and children's mental health agency, invited a group of educators, youth service providers, law enforcement personnel, business leaders and parents to participate in a round table discussion on issues pertaining to "youth at risk." It was generally agreed that with better interagency coordination of existing resources the needs of area youth at risk would be more efficiently and effectively met.

Led by Supervisor Marty Rutledge of FYCSOM the coalition put forward a proposal to various funders and a seed grant was secured from the federal National Crime Prevention Centre and Ontario Ministry of Community and Social Services. On July 5, 1999 the Alternatives for Youth in Muskoka (AYM) program was born and began to explore two issues.

- Alternatives to the traditional youth court process
- Alternatives to student suspension from school

With the strong support of local partners, the broader community and volunteers, a range of prevention/early intervention programming has been designed and implemented.

Alternatives to the Traditional Youth Court Process

The main alternative to traditional court sentencing for youths is the community justice circle. Based on a native sentencing circle model, offenders and victims meet outside court to resolve their conflict. The rationale behind this type of approach is that the best people to deal with an incident are the people directly affected. The situation is treated as an opportunity to support and guide youths, reintegrate them back into the community of people they have affected, and restore those relationships. A trained facilitator, often a community volunteer, leads the discussion, helping all parties generate a mutually agreeable solution to their conflict. Victims help determine meaningful consequences and youths are held accountable for their actions. Upon complying with the terms of the circle agreement the charge against the youth is withdrawn in court and there is no criminal record.

The theoretical basis for this type of approach is Affect Theory and Braithwaite's (1994) studies on "re-integrative shaming." Braithwaite found that cultures utilizing shame in resolving conflict experience significantly lower rates of recidivism. International measures of the effectiveness of this type of approach to anti social and criminal behavior suggest this is indeed a powerful tool. Practitioners applying the theoretical construct have learned that victim satisfaction is high,



offender compliance with circle agreements is high and recidivism is low. Research in this area is validating the anecdotal evidence gained to date. For example, the Sparwood Youth Assistance Program in British Columbia studied by Bouwman and Purdy (1997) showed an 8.3% recidivism rate in 1995, a 2.9% rate in 1996 and a 100 % compliance with circle agreements over the period of the study. These findings seem congruent with AYM's local statistics that have measured compliance with circle agreements at 95.9% and recidivism at 9.6% over the three-year period of its existence.

A thirty-year veteran Police Officer attending one of the more prominently scrutinized circles stated, "This is the best way to deal with these sorts of crimes. After two hours there was quite a change in attitude in the room. At the end some of the victims went over and hugged the youths. These youths are never going to be in trouble again!"

Partnerships are key to the success of the AYM program. Police investigate an incident and, based on the remorsefulness of the youth and the seriousness of the incident, may recommend referral to a community justice circle in their brief to the Crown. The Crown notes the Police recommendation and determines which youths are suitable for referral. Upon referral at Huntsville or Bracebridge Youth Court, youths and parents enter the program voluntarily after meeting with the AYM Coordinator. A trained volunteer facilitator is assigned and a circle date is set. Although pre-charge or first appearance referrals are preferable, referrals can occur at any time in the justice process including circles as part of a court ordered pre-disposition report or probation order.

Crown Attorney Ken Anthony feels this approach can have a profound effect on those involved. "I view this work to be of great benefit to offenders, victims of crime and the community generally."

Huntsville O.P.P. Detachment Commander Dale Gordon is proud of the accomplishments of the partnership to date but feels the best is yet to come. "We are particularly supportive of pre-charge diversion which will result in less resource hours required by police in laying charges for minor incidents where the circle process proves to be more effective."

Muskoka was designated a "Youth Justice Committee" (YJC) site by the Ontario Ministry of the Attorney General in the recent expansion of that program. When a victim chooses not to participate, the YJC process utilizes volunteers from the community to help the youth and family determine appropriate terms to the conflict. Although victim participation is optimal this response allows an effective intervention even without victim participation. Youth justice committees will be available to the citizens of Muskoka District as early as January 2003.

Community members who have participated in the circle process describe it as a powerful experience. One parent commented, "I was surprised at how emotional and impacting it was (for my son). Having to actually confront his victims and bare his soul in front of friends and family was difficult. The bottom line is kids learn from it and decide they don't want to (offend) again." For some, the circle experience can be a pivotal moment in their young life. "I'm off to university this fall," stated one of the youths that had successfully experienced circle justice, "to take Criminology!"

Alternatives to Student Suspension from School

The main alternatives to student suspension are school based circles and community volunteer placements. These placements involve students being matched with adult mentors and volunteering their time at local agencies like the

animal shelter, hospital, food bank or seniors' residence. The continued availability of the placement is contingent upon the student's in-school behavior throughout the week. Relationships are formed in the broader community and life skills learned that could be applied positively in the classroom. Proactive measures like this have resulted in a decrease in disruptive behavior and fewer suspensions for some students.

Trillium Lakeland's District School Board Principal Ray Love, one of the original coalition members, sees the potential in these school and community based interventions. He noted, "AYM is on the leading edge of providing community based interventions for youth in Muskoka. The program has forged strong links with local schools to better serve needy children."

AYM's success is measured in large part by the strength of the community connections it has cultivated in order to do the work required in the diversion and restitution programs. In this regard AYM partners with other agencies such as Community Living Huntsville, Town of Huntsville Community Services and Seneca College, providing a range of services such as mentoring and social skill development. In addition to pre charge diversion and youth justice committees, future plans include the expansion of seasonal day camp experiences and apprenticeship opportunities.

FYCSOM Executive Director, Allan Hogan has witnessed the strong commitment of the Muskoka District to AYM. An equally strong commitment to the program has been seen by AYM's funders: the Ministry of the Attorney General, the Trillium Foundation and the Muskoka Municipality. "Recognizing the strength of the intervention and program, its general application to social services and the testimonial effectiveness, it is critical for AYM to receive

annualized stable funding. The AYM program should not be in a position to seek funding on a yearly basis. Although the need for the program has grown (due to community awareness of its effectiveness) the resources for expansion have not grown at a similar rate." Further work is required in securing financial resources to ensure that the program meets the growing needs of the community. Mr. Hogan states, "Tom Berry, AYM Coordinator and life line, has been a remarkable ambassador of the program and an outstanding advocate for restorative justice and community healing."

FYCSOM Director of Service, Margaret Morrison is interested in exploring additional applications of the effective AYM approaches in a multi service agency context and hopes to work with other agencies to establish provincial "best practices." As with all youth, instruction in personal responsibility and socially appropriate behavior is paramount. The circle process could help child welfare and mental health staff in their work with client families or foster parents in conveying the true human repercussions of choices made by parents and/or youth. Alternatives to suspension could help agency related youths maintain a positive relationship with the school community as they mature. These applications in any context are relatively new, at least in modern North American society, and all involved are excited about the possibility of a broader application of this effective intervention.

While a bona fide success story, AYM's future remains uncertain. Although with ongoing FYCSOM support and much needed financial contributions from the Trillium Foundation, District of Muskoka and Ontario Ministry of the Attorney General, AYM must find ways to cobble together enough funding to continue. Fortunately the proposed Youth Criminal Justice Act, which will soon replace the current Young Offenders



Act, encourages greater use of community based programming to address youth crime. It's possible more funding from the provincial and federal governments will follow to allow progressive and cost effective programs like AYM to flourish.

About the author

Tom Berry lives in Huntsville, Ontario Canada with his wife and 4-year-old daughter. He is a teacher by profession and has 20 years experience in education, camping and the social services, specializing in programming for special populations. He is currently the Program Coordinator of Alternatives for Youth in Muskoka (AYM).

For more information on FYCSOM and the AYM program please contact Tom Berry, AYM Coordinator at (705) 789-8866 or aym@justice.com .

Family group conferencing: An effective tool in planning for children's safety and well being

By Jeanette Schmid and Sandra Goranson

Ensuring that families have a voice in developing plans for their children's safety and well being has been the focus of a three year pilot project operating in the west end of Toronto. A research component was part of the Family Group Conferencing project from the outset, and the results of the evaluation study are now available.

This article will briefly describe the innovative concept of Family Group Conferencing (FGC) as well as the Toronto Family Group Conferencing Project. The evaluation results will be expanded upon, making a case for the usefulness of this approach in child protection.

Background

In New Zealand where Family Group Conferencing began, Maori families were concerned that their children were over represented in the child in care population and furthermore most of their children were being placed in white homes. As a result of their advocacy, Family Group Conferencing was introduced in "The Child and Families Act" (1989) as a way of addressing these concerns [Burford, G. and Hudson, J. 2000]. The process was based on tribal practices for resolving problems and allowed the child's extended family (in their case, the child's tribe) to make plans for the child which would address the child welfare concerns and would be presented to the court as the plan for the child.

Since families universally have expressed concerns about the inequities for families in

dealing with child protection issues this approach of working with families has held enormous international appeal. At the present time Conferencing is being applied at sites in a number of other countries including Australia, the United Kingdom, the United States, Sweden and Holland.

In Canada there have been two previous demonstration projects in the child protection field: Newfoundland (1995/6) and Calgary, Alberta (1997) [Burford, G. and Hudson, J. 2000]. In Dauphin County and in Winnipeg, Manitoba Conferencing is being offered through two native Friendship centers. Pilot projects are currently being established in British Columbia and in Guelph, Ontario.

The Toronto Family Group Conferencing Project

Knowledge of the New Zealand practices and the pilot project in Newfoundland brought together the Children's Aid Society of Toronto (CAST), the Catholic Children's Aid Society of Toronto (CCAS), the Etobicoke Children's Centre (ECC) and the George Hull Centre for Children and Families (GH) in May 1998. They were interested in a process that could increase the immediate and extended family's participation in the planning process for children. The then current child and family legislation encouraged the involvement of family members including relatives but they were often difficult for child welfare workers to access at the time of apprehension and tended to become involved



very late in the process. Families also expressed grave dissatisfaction about their ability to find out what was happening in the lives of their children as well as their powerlessness in intervening successfully.

The Children's Aid Foundation approved funding for a three year pilot project and the Family Group Conferencing Project (FGC) was officially launched when a coordinator was hired in September 1998.

This collaboration manages the project through a Steering Committee. The agencies collectively resource the program, with the coordinator having her office at the George Hull Centre, and a supervisor from CAST and one from GH offering the coordinator joint supervision. Native Child and Family Services accepted an invitation to become a member in late 2000.

Family Group Conferencing as a Tool

Family Group Conferencing is a means of actively involving the nuclear family, relatives and friends in the long term planning process regarding a child's safety and well being. It is based on the belief that family groups want to participate in planning for their children and that their experience and expertise regarding the nuclear family compliments that of the professionals and is needed for an effective plan to be developed. The philosophy is an inclusive one, assuming that the child has the right to be connected not only to parents and siblings, but also to their larger kinship system. Efforts are thus made to provide avenues for involvement by bringing people from far away, by using letters and conference calls, or having another family member represent the absent person in the conference. One of the primary concepts behind

Conferencing is that families are more likely to implement plans that they themselves have developed.

It is believed that Conferencing is also a culturally sensitive tool. Some activities that support this are: families are encouraged to mark the beginning of the meeting in a way that is significant for them as a family; they also decide what food should be served, and how the middle part of the meeting, the family private time should be run; families are encouraged to take the time they need to complete the Conferencing process; and where appropriate, interpreters are used and agencies representing diverse populations are consulted.

The preparatory work for the conference is seen as critical to the meeting's success, and the coordinator prepares both service providers and family group members by telling them about the Conferencing process, informing them of the child welfare concerns, talking about who will be attending, and helping them anticipate how they will want to participate on the day.

The conference itself is made up of three stages. In the opening and information giving stage the focus is on providing the family network with information on how the professionals involved identify the strengths and concerns and ensuring that they understand the information provided and the bottom line issues involved. In the family private time, the family group meets without service providers to craft a plan that responds to the issues raised. In the final part of the meeting the plan they have developed is presented to the child protection team who will approve the plan if the child's needs for safety and well being have been adequately addressed. If modifications are required the family will resume their private meeting until the outstanding issues are resolved.

The Research Team and Their Findings

The research team included Dr. Nancy Sullivan, Dr. Deena Mandell and Dr. Grahame Meredith who originally were all part of the Ryerson Centre for Evaluation in Human Services. Each has respectively moved on to: the Social Work Department at Memorial University, the Social Work Department at Wilfrid Laurier University and private practice consultation.

A participatory research framework was adopted, with the research team thus identifying areas of focus in conjunction with the working group, a subgroup of the Steering Committee.

Four areas were chosen:

- Model and Partnership Development: development of a model of Conferencing to be used in the west Toronto environment
- Preparation of Agency Staff and Community Partners: development of a training and education strategy which will enable agency staff and community partners to understand and support the Conferencing approach
- Develop Referral System: development of processes for stimulating and managing referrals
- Family Group Conferences: families and professionals are prepared, participate in, analyze, approve and monitor the plan in a manner consistent with the philosophy of FGC

A number of quantitative and qualitative strategies for accessing data were adopted. These included:

- Focus groups with child protection

workers: Both workers who had made referrals to the Conferencing project and those who had not were interviewed. Supervisors also were interviewed.

- Interviews with family members who had participated in conferences.
- Interviews with Steering Committee members and the coordinator.
- Review of the data base set up by the coordinator.

Two annual reports were submitted, and a final report was produced in December 2001.

The Evaluation Outcomes

In the period that was reviewed (October 1998 to April 30, 2001) 54 families were referred to the project. 25 of these families chose to go ahead and participate in a Family Group Conference. Of the 29 that did not proceed, 54% indicated to the coordinator that they did not in fact want to be involved in a Conference; for a further 15 % of the families, the issue resolved itself; 7% were advised against participating by their lawyers; and, for the remaining 18%, the worker withdrew the referral.

Family Group Conferencing is not specifically promoted as a family preservation approach. Nonetheless, of the 58 children for whom plans were developed, only 6 children remained in care or were taken into care after a conference was held. The other 52 (90%) were placed with their parents or with other members of the family group. At the time of the conference, 40 of the 58 children were in the care of the Children's Aid. These outcomes exceeded expectations that child welfare staff had expressed to the coordinator when making the referral for Conferencing. The workers had estimated that only one third would definitely be returned to their families, whilst another third would likely



remain or be placed in care if no Conference was held. The workers believed that for the remaining third the outcome could swing either way. When family members were interviewed by researchers they said that they had had similar expectations.

Family group members were asked a range of questions to establish whether they found the process useful. Family members reported that they had a better appreciation of why the child welfare system had become involved, and that in turn that the child welfare team had an improved appreciation of the family situation. Family members also felt that their children's safety and well being were improved as a result of the Conferencing process. Another benefit was that the support received from other family members and the number of family members providing support to the children had increased considerably since the Conference. A surprise for family members was that their relatives tended to provide more support than they thought they would, and that they provided more than they had promised during the Conference itself. The children were seen by the adults interviewed as having felt content with the plans that were developed for them.

Child welfare staff expressed similar sentiments saying that they were generally satisfied with the plans. It appears that the plans developed at the Conferences have remained quite stable, though the workers interviewed felt that longer term research would be useful.

Workers reported that they had referred to the program because Conferencing matched the philosophy that they preferred to use with clients, that it reduced their workloads, that it resulted in better outcomes for the families and that it supported their belief in the capacity of the family to plan and come up with resources.

A key finding is that Family Group Conferencing is a cost effective intervention. The research team developed an estimate of the number of children who would have remained in or required placement in the formal system and assumed at least 15 additional months in care. They contrasted the cost of such care with the conference costs, and found the latter to be considerably cheaper. The cost savings would be increased if court costs were also to be considered.

An ongoing concern for the project had been the number of referrals received, and it has been recognized that it is important to understand and respond to barriers that are identified by workers if the project is to become a sustainable one. Workers said that factors which influenced referrals included workload pressures, time constraints and the fear of possible risks that result from families developing plans in the current child welfare environment.

Another issue the research team identified as worrisome was that no out of the ordinary resources were made available to the families, nor did resources seem to be used very flexibly. A core concept in Conferencing elsewhere is that resources available through the informal and formal systems around a family will be more closely tailored to the particular needs of the families, and inherent in this is the belief that adequate resourcing will be provided. Many of the families that participated in the project were still struggling with issues such as housing and day care provision after the Conference. (This project however had never focused on obtaining out of ordinary resources for the families' involved in Conferencing other than those available through the child mental health agencies. The political climate at the time Conferencing was begun did not support providing increased resources to families as part of prevention planning.)

An example of extraordinary resources occurred in Kent County, Michigan where Conferences were used to locate relative homes for children in care. Funds and services were attached to the child and moved to the extended family home as was deemed necessary in the conference planning. These homes proved to be more stable than regular foster homes and also increased the chances that the child would return to the original care provider, generally a parent or parents in the year allowed for permanency planning. (Compton, D. and Jackson, W. in Burford, G. and Hudson, J., 2000).

The research team recommended that there be further research in the following areas:

- Tracking the long term safety of the children for whom plans have been developed
- Comparing the outcomes for children involved in Conferencing with those that have not
- Examining strategies for sustaining and increasing the referral base
- Identifying strategies that will enable the child welfare system to provide supports and resources to families

Conclusion

Family groups agree that Conferencing allows them to effectively participate in developing plans for their children's safety and well being. To date Conferencing has also allowed the majority of the children involved to grow up in a family home either nuclear or extended. Family members feel that involvement in the process has been beneficial for them and their children which is supported by the referring workers who indicate that plans tend to be stable at least over the short term of the current research. As well, the working relationship with the family has become less adversarial. The cost effectiveness of the

program is a clear advantage in that many more children than expected left care to stay with either nuclear or extended family members. These positive outcomes suggest that Conferencing should be offered to more families involved in the child protection process particularly those where a timely plan for a child or children is needed but is not currently evident. Further ongoing research is required to determine when and for which families and children Conferencing is most effective.

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