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# IN-the-KNOW...

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## Court use

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Evidence-Based Management

Finding the best approach for engaging families, whether through court involvement or voluntary measures, is one of the challenges of youth protection work. One possible indicator of this family engagement is the rate of use of court ordered measures. While it is preferred that youth protection and community services are able to work with families without having to resort to potentially adversarial court procedures, at times resorting to the courts is inevitable. From a management perspective, tracking rates and examining factors associated with youth court involvement can help guide program development and decision-making for the types of cases identified as most likely to be adjudicated.

### MEASURING COURT USE AT BATSHAW YOUTH AND FAMILY CENTRES (BYFC)

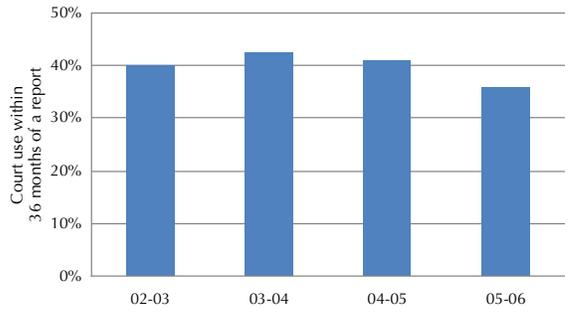
In consultation with the BYFC outcome indicator Reference Group, we developed a court use measure that would best describe the experience of clients from the point of first contact at Evaluation/Orientation: **Any court event (including urgent, provisional, interim and final measures) under the Québec Youth Protection Act (YPA) that occurred within 36 months of the initial retained report.** In other words, this indicator measures the likelihood that the situation of a child investigated under the YPA ends up before the court within three years of the report (signalement).

To track these cases we compiled a list of children whose reports were retained for investigation from the fiscal year 2002-2003 to the fiscal year 2005-2006 (3446 in total). These cases were then monitored over 36 months for any YPA court involvement.

To avoid double counting recurrent cases, children who had received services within the previous 12 months were excluded. Youth who were older than 15 years at the time of the initial report were also excluded as they would turn 18 within the 3-year follow-up period. This poses a limitation given the

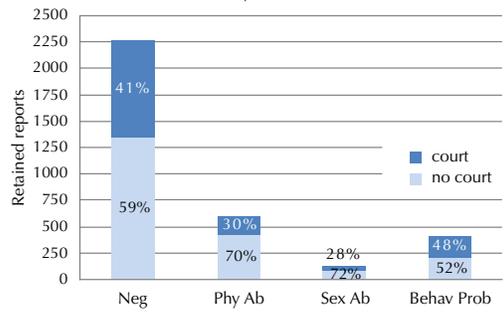
relatively large proportion of youth in this category. Further analyses could be adapted to this age group to understand court use patterns specific to older youth.

Chart 1: Court use by fiscal year



Results reveal that on average 40% of retained reports end up before the courts within three years of the report (see Chart#1). The apparent one year decline in 05-06 should be interpreted with caution as it may be a single year anomaly; close attention will be paid to monitoring this trend in 06-07 and 07-08. Note that because these cases are followed for 36 months, data for 06-07 will only be available in 09-10.

Chart 2: Rates of court use by reason for service, 02-03 to 05-06



As shown in Chart #2, courts are used most often in cases involving behavior problems (48%) or neglect (41%) and least often in cases involving abuse. Given the sheer number of reports involving neglect, these cases account for more than two thirds of all cases that proceed to court.

## Court use

(cont'd from page 1)

### FURTHER ANALYSES

Other facets of court involved cases reveal (between 02-03 and 05-06):

- Half of all cases that proceed to court do so within 116 days of the initial report. In most instances the first court appearance occurs while families are receiving orientation services (48%), followed by evaluation services (36%), while in only 16% of cases court procedures are initiated when a family reaches Application des Mesures (A.M.) services.
- For court involved families, final measures were ordered in 95% of cases.
- Although our court measure includes only retained cases, a supplementary analysis of *non*-retained cases reveals that within 36 months, court events occurred in 12% of these cases.

### INTER-JURISDICTIONAL COMPARISONS:

Comparisons with other jurisdictions can provide a useful point for considering the extent to which we have found the right balance between court ordered and voluntary measures; however, differences in the way such rates are calculated and reported can lead to confusion. Reported rates of court use can vary dramatically, depending on the period of time over which rates are reported, the types of court events that are included, and the types of cases that are covered (e.g. all retained reports versus cases open for on-going services at A.M.).

Data reported by the Québec Ministry of Health and Social Services allows for potentially useful comparisons with other Youth Centres across Québec. From 02-03 to 05-06 the proportion of judiciarized Orientations at BYFC was in the range of 60%, compared to under 50% for the province as a whole. It should be noted that in all Youth Centres in the Montreal area (CJM, Laval & Montérégie) rates of judiciarization were also higher than the provincial average (Lessard Report, 2005). Further analyses would be required to understand whether these differences reflect variations in the characteristics of the populations served, the types of services available, or in court related standards or procedures.

Comparing rates between provinces on a per capita basis provides yet another way of examining our reliance on the courts. Comparing rates of judiciarization across three provinces, Campbell, Springate and Trocmé (2009) found that contrary to expectations, Québec had the lowest rate with 3.34 per 1000 children brought before youth protection court, compared with 4.4 per 1000 in Ontario and 4.27 per 1000 in Alberta. As with intra-provincial rates, it is important to consider that these differences may be influenced by varying legislation, policies and practices among the provinces.

### CONCLUSIONS

While the complexity and severity of many of the situations that are reported to youth protection may require court ordered interventions, the spirit of the YPA and our own principles of good social work practice encourage us to seek alternative and less adversarial planning and decision-making procedures. The rates of judiciarization at Batshaw are comparable to the rates in youth centres serving comparable populations, and possibly lower than rates in the rest of Canada; however, the fact that 4 out of 10 retained reports end up at some point before the courts raises the question of alternative dispute resolution methods that could avoid potentially adversarial court procedures. Recent changes to the YPA encourage the use of such alternatives: as BYFC explores these methods it will be important to track to what extent court can be avoided while ensuring that children are protected in healthy and supportive environments.

Court use is an important indicator to track over time at the agency level; however, it is important to keep in mind that it should not be a consideration at the level of individual cases, where clinical and legal considerations should guide decisions. Together with other outcome indicators, monitoring court use provides an overview of the complex issues common to families involved with child protection services, and should not be examined in isolation. [ITK](#)



## Family group conferencing

*The following is a summary of an Independent Study Project undertaken by Janina Jackson for the McGill University Masters in Social Work program.*

**F**amily Group Conferencing (FGC) is rapidly emerging as an alternative, collaborative, strengths-based planning approach to child protection. The strategy for FGC is twofold: first, family and extended family are involved in the planning process to a greater degree, possibly resulting in more creative plans for the safety and well-being of children; second, it represents a possible decision-making forum alternative to courts. Unlike traditional approaches to child protection, FGC is based on an inclusive model that situates families in a leadership position, elevating them to a central role in the process of planning for their children. This supports the belief that family-based solutions are likely to be better than those imposed by professionals.

In practice, family group conferences involve a meeting between family members both immediate and extended, community members chosen by the family, as well as public agencies for the purpose of making a plan for the permanency, safety and well-being of children. The aims of FGC are to strengthen the family, coordinate services, increase family communication, make safety plans, reunite the family, and/or undergo visitation and transition planning. There are four main phases of the FGC model:

- 1) **Referral** – A referral is made by the youth protection worker in consultation with their supervisor and the family.
- 2) **Preparations** – An independent coordinator/facilitator that has had no previous involvement with the family contacts and prepares all potential participants. Of critical importance is to clarify the philosophy and expectations of the process and to ensure that participants feel safe, comfortable and supported.
- 3) **Family group conference** – The coordinator/facilitator engages the participants in *information-sharing* about the youth protection concerns in the presence of the entire group. Opportunities are provided for the family to clarify any aspects of the investigation or to have questions answered. During *private family time* the rest of the group withdraws so that the family may discuss issues and determine a protection plan. This has been viewed as a cornerstone to the FGC process in its support of family empowerment and the

development of solutions and recommendations without the influence of professionals. During the *agreement phase* the family communicates whether an agreement on a plan was reached and everyone is brought back together to finalize the recommendations created by the family. The facilitator is responsible for organizing external resources and services to support the family's plan, which should be approved by the child protection worker, provided it ensures the child will not be at risk of significant harm. If the family cannot make such assurances, even after the provision of additional family time, the youth protection worker can decide on another course of action or refer the case to court.

- 4) **Follow-up conference** – If required to monitor the implementation of the plan and make any necessary adjustments, this may be the final phase of the process.

Due to the complex and multi-faceted nature of families, concern for ensuring safety and protection of all family members during the process is paramount. With increased experience, FGC programs have begun to apply to more expansive selection criteria, including families viewed as more challenging and difficult, such as in domestic violence and sexual abuse cases.

FGC is still a relatively new approach to decision making. While recent international studies have yielded important findings, many unanswered questions still remain regarding the processes and outcomes. The few FGC evaluative studies undertaken to examine broad child welfare questions regarding the safety, well-being and stability of children have reported both positive and neutral outcomes.

Considering the increased number of admissions to foster care coupled with the limitations of the system, the role of family and kin to care for children has gained greater attention in recent years. The movement within child welfare to consider and exhaust all possible family avenues in caring for children is reflected within the FGC process. An organizational practice culture that supports FGC should be cultivated and nurtured by both workers and child protection agencies if the intent is to bring this intervention from the margins of practice into the mainstream. [ITK](#)



## Le cercle de l'enfant / The circle

By Anne-Marie Piché (McGill CRCF Researcher)

“Le Cercle de l'Enfant” or “the Circle” is a family group conferencing model that aims to promote and safeguard children's fundamental rights within social paediatrics centres. Inspired by the aboriginal decision-making process and using mediation and family group conferencing tools, it is a preventive model aimed at lowering the state of vulnerability of a child experiencing various family, health or social difficulties. The Circle targets children using services from social paediatrics centres established in two socially disadvantaged communities in Montréal, Québec. The social paediatrics team works in partnership with vulnerable children, their families, various community organizations, schools, protection services and other institutions involved to better support children's optimal development. The Circle aims to change the way problems are handled by the community and institutions and to foster more active participation of families' informal networks in decision-making processes.

The Circle model was recently presented at the 5th World Congress on Family Law and Children's Rights by Anne-Marie Piché and Hélène (Sioui) Trudel, and is presently the object of an evaluation study in partnership between McGill University's CRCF and

the “Fondation pour la promotion de la pédiatrie sociale.” BYFC is participating in the *Comité de travail multisectoriel* and has offered to participate in the Circle for cases that fit the model. An upcoming CRCF research seminar presentation on the Circle has been scheduled for December 18, 2009.

### OTHER FAMILY GROUP CONFERENCING STUDIES

Dr. Gale Burford, University of Vermont/former Director at Shawbridge Youth Centres is currently leading an international team of researchers in a systematic review of international studies focusing on family engagement in decision making in child welfare. For an annotated bibliography regarding family group decision-making, you can go to: [http://www.americanhumane.org/protecting-children/programs/family-group-decision-making/re\\_annotated\\_bibliography/](http://www.americanhumane.org/protecting-children/programs/family-group-decision-making/re_annotated_bibliography/)

Dr. Aron Shlonsky, University of Toronto/McGill CRCF partner, is leading a Campbell Collaboration systematic review on “Family group conferences for children at risk of abuse and neglect.” <http://www.campbellcollaboration.org/library.php>.

ITK

### Did you know?

The McGill CRCF hosts research seminars approximately bi-weekly at 3506 University in the Wendy Patrick room from 12:00 – 1:30. These seminars provide an opportunity for faculty, visiting scholars, graduate students and clinicians to share and discuss their research. Batshaw staff are always welcome! The seminar series begins this season with the following presentations:

**November 4:** Dr. Delphine Collin-Vézina & Mireille de la Sablonnière (McGill University) – **University-Organization collaboration for enhanced access to mental health services for First Nations peoples**

**November 18:** Bruce MacLaurin (University of Calgary) - **Examining factors leading to placement in child welfare: The impact of organizational variables**

**December 2:** Dr. Christine Wekerle (University of Western Ontario) - **Are females doing worse in child welfare? Considerations from the Maltreatment and Adolescent Pathways (MAP) longitudinal study**

**December 18:** Anne-Marie Piché & Hélène (Sioui) Trudel - **Le Cercle de l'enfant: A program evaluation**

- All material featured in *In the Know* is available in the Batshaw library. For complete copies of any material please contact Janet Sand at [janet\\_sand@ssss.gouv.qc.ca](mailto:janet_sand@ssss.gouv.qc.ca)
- For more information on the Evidence-Based Management project or for the PDF of this issue, please visit <http://www.mcgill.ca/crcf/projects/ebm/>
- For access to up-to-date research on Canadian child welfare programs and policies, please visit the Centres of Excellence for Child Well-being, Child Welfare Research Portal at <http://www.cecw-cepb.ca>
- If you have any comments or questions about *In the Know*, you may direct them to [Claude\\_laurendeau@ssss.gouv.qc.ca](mailto:Claude_laurendeau@ssss.gouv.qc.ca). We welcome your feedback!

