

Inuit Legal Info

A CHILD'S TESTIMONY DURING A CRIMINAL TRIAL

Éducaloi, in collaboration with the Makivik Corporation, presents Inuit Legal Info. These legal information sheets are aimed at informing Inuit women about their rights, as well as the judicial recourses that may help them defend these rights.

Mary is 10 years old. She was sexually assaulted by her paternal uncle and she will soon have to go to court to testify. Today, his mother, Louisa, is taking her to see the Crown prosecutor, Mr. Morin, to prepare her testimony.

Mr. Morin: Hello Mary, hello Louisa. It is good to see the both of you. How are you?

Louisa: We're fine, but Mary has been very anxious ever since we found out the trial date.

Mr. Morin: I understand, testifying can be very intimidating, all the more so when a sexual assault is involved... but today, we'll talk about exactly what will happen when you go to court.

Louisa: Mr. Morin, as you know, my daughter is terrified of her uncle. She has been seeing a psychologist ever since the assault. And on the day of the preliminary inquiry, Mary completely froze when she saw her uncle. Can we have him leave the room when she testifies?

Mr. Morin: No, he has the right to stay in the room because it is his trial. However, given Mary's situation, I will ask the court to let her testify behind a screen. That way, she can speak openly and say everything she has to say.

Louisa: I know that criminal cases are public, but I don't want everyone to know that she is the victim in all of this...Can we do something to protect my daughter?

Mr. Morin: Well, the tribunal can issue a non-publication order to prevent the media from revealing Mary's identity. The tribunal can also order that all or some of the people present leave the hearing room during the trial so as to protect Mary's interests. This is called a closed

hearing. I will make these two requests to the court on the day of the trial.

Mary: Excuse me, I have a question. Am I going to have to repeat everything I said to the police?

Mr. Morin: Mary, your testimony is very important. You are going to have to tell the judge everything you said to the police. Once you're in the hearing room, the judge will ask you some questions to make sure you are capable of understanding and answering the questions that are put to you. For example, he might ask you what you did the day before, how you're feeling, how your day at school went, etc. Once the judge sees that you are capable of observing, remembering and explaining events, he will ask you to promise to tell the truth. After that, I will start to ask you questions.

Mary: I don't know if I will be able to talk about everything that happened. Just being here now is making me really nervous...

Mr. Morin: Would you feel better if your mother was by your side during your testimony?

Mary: Yes. Can she do that?

Mr. Morin: Yes, but I will have to ask the judge first. Since she is not a witness in this case, I really think the judge will say yes. You can also be accompanied by someone from CAVAC, the Crime Victims Assistance Centre. I will give you their number before you leave.

Now, we're going to go run through everything that happened during your assault. I know this is not easy for you, but it's absolutely necessary that you tell me *exactly* what happened. I am certain you'll be able to do this. Okay, let's get started.

If your child is in a similar situation and would like to be accompanied during her court testimony, do not hesitate to contact the Crime Victims Assistance Centre (CAVAC) in your region.

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