

APPENDIX C – SOME CRITICAL LEGISLATION, CASE LAW AND POLICIES

The legislation, case law and policies that inform the justice-media relationship include:

- *Canadian Charter of Rights and Freedoms*
- *Canada Evidence Act*
- *Freedom of Information & Protection of Privacy Act*
- *Courts of Justice Act*
- *Administration of Justice Act*
- Pivotal legal decisions, e.g., *Dagenais*, *Mentuck*, *MacIntyre*, *Vickery*
- Ministry of the Attorney General Crown Policy Manual

The Panel heard from the Ministry of the Attorney General about the special needs of children in the justice system. The Office of the Children’s Lawyer represents children, for example, in custody/ access proceedings before the courts. The point was made that the media must be ever mindful to uphold the spirit of privacy laws with respect to children in the justice system: not to make identities known through “other” means of identification; to be aware of the impact of reporting not only on the child but also on his/her siblings.

In another presentation by the Ontario Victim Services Secretariat, the Panel heard the concerns that victims commonly express about the media with respect to real or perceived violations of privacy, and misrepresentation or inaccurate reporting.

It was observed that victims have also expressed that media coverage can reduce their sense of isolation and allow them to regain their voice.

The Panel also heard from the Canadian Newspaper Association on a point supported by the Ontario Community Newspapers Association and the Ontario Association of Broadcasters that:

There are already sufficient legislative and other restrictions upon the media that are intended to protect children, victims and other vulnerable people. There is no need to add an administrative layer of protection on top of that currently available in law.

The trial judge always has the discretion to protect sensitive/ private matters and the courts have developed protocols and guidelines for redacting information.

This balance was expressed well by the Ontario Bar Association:

Privacy and open access to the justice system and freedom of expression (including freedom of the press) are all fundamental rights in a free and democratic society. None is absolute, nor are they mutually exclusive. An appropriate balance must be struck when weighing these competing interests.

It is against these backdrops, that is, a vision statement and set of principles and some overarching considerations, that the Panel has set out its recommendations.