



Australian Paediatric Surveillance Unit
PARTICIPANT STUDY INFORMATION SHEET
Paediatricians experience with
subpoenas and court testimony
related to suspected child maltreatment

COMMENCED
JUNE 2024

BACKGROUND

When concerns surface about child maltreatment, paediatricians are often asked to assess children's medical and forensic needs. Legal proceedings in both the criminal justice and child protection systems occur frequently in child maltreatment cases. Important decisions made in court often rely upon information provided by paediatricians about the paediatric clinical investigation and interpretation of findings in that particular case as well as foundation medical knowledge obtained from current literature. Paediatricians are frequently asked to provide opinions on issues such as the likelihood of abusive versus accidental causes, the likely type of injury and symptoms experienced by the child, the timing of the injury and the likelihood of alternative explanations for findings such as non-traumatic disease entities (including rare diseases). Providing testimony in paediatric cases is often challenging, the matters to be considered in court are often complex and outcomes of court hearings may have significant adverse effects on all parties involved.

Few medical schools teach doctors how to prepare high-quality medicolegal reports, deliver testimony in court and comply with legal procedure (including the rules of evidence) in each jurisdiction. There are no standard training requirements, accreditation or credentialing procedures that should be undertaken prior to a paediatrician appearing in an Australian court as an expert witness. Very little empirical evidence exists in the medical or legal literature to instruct or support paediatricians to provide high quality medical testimony. Currently, strategies implemented internationally to improve the quality of testimony rest upon attempts to strengthen judicial decision-making around admissibility of expert evidence, challenging the qualifications for serving as a medical expert and educating paediatricians about ethical practices and desired standards around expert opinion evidence.

Providing medical evidence in court can be a stressful experience, even for experienced forensic paediatricians. Exposure to and empathic engagement with traumatised patients coupled with the stress of legal proceedings and providing evidence in court can contribute to adverse psychological outcomes for paediatricians, including secondary traumatic stress and burnout.

The quality of some paediatricians' testimony has been criticized by the legal and medical systems and publicly in the media, damaging reputations and careers, resulting in censure and restrictions on medical practice. Significant miscarriages of justice have also occurred as a result of erroneous and misleading testimony. Public and professional confidence in paediatrician expert testimony has been negatively affected by such events. Furthermore, there are international examples of reduced paediatrician willingness to engage in medicolegal work as a result of high-profile negative publicity and censure which had downstream impacts on the criminal justice and child protection systems and ultimately on child safety. Despite this, little is currently known about testimony in child maltreatment cases provided by paediatricians in Australia.

STUDY OBJECTIVES

1. To identify the frequency with which Australian paediatricians receive a subpoena to provide testimony in court for cases of suspected child maltreatment.
2. To identify the frequency with which Australian paediatricians provide testimony in court for cases of suspected child maltreatment.
3. To identify the training and qualifications of Australian paediatricians who provide testimony in court for cases of suspected child maltreatment.

4. To identify the features of cases in which paediatricians provide testimony in court for cases of suspected child maltreatment.
5. To identify the legal settings in which Australian paediatricians provide testimony for cases of suspected child maltreatment.
6. To identify the impacts on paediatricians who provide testimony in court for cases of suspected child maltreatment.

CASE DEFINITION

- A. The event of receiving a subpoena to provide medical evidence in court regarding child maltreatment. Please identify if you have **received a subpoena** to provide testimony in court for any child <18 years of age with suspected maltreatment in the past month (please complete Survey A)
- B. The event of testifying in court regarding child maltreatment. Please identify if you have provided testimony **in court** for any child <18 years of age with suspected maltreatment in the past month (please complete Survey B).

The duration of the study will be 12 months. Survey will take approximately 15-20 minutes to complete.

INVESTIGATOR CONTACT DETAILS

- Dr Alyce Horstman – Paediatric Research Fellow, Victorian Forensic Paediatric Medical Service & PhD Candidate, Monash University Department of Forensic Medicine Alyce.Horstman@rch.org.au
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- Prof Richard Bassed – Deputy Director and Head, Academic Programs, Victorian Institute of Forensic Medicine & Head of Department & PhD Primary Supervisor, Monash University Department of Forensic Medicine Richard.bassed@vifm.org
- A/Prof Lyndal Bugeja – Research Lead, Violence Investigation Research and Training Unit & Course Coordinator Post Graduate Programs & PhD Supervisor Monash University Department of Forensic Medicine lyndal.bugeja@monash.edu
- A/Prof Anne Morris – Senior Research Fellow (APSU Representative), Australian Paediatric Surveillance Unit, Kids Research, The Children’s Hospital Westmead, Sydney Anne.Morris@health.nsw.gov.au
- Professor Elizabeth Elliott – Director APSU (APSU Representative), Australian Paediatric Surveillance Unit, Kids Research, The Children’s Hospital Westmead, Sydney Elizabeth.Elliott@health.nsw.gov.au

NATIONAL ADVISORY COMMITTEE

- Dr Paul Hotton – Paediatrician – Staff Specialist, Forensic Paediatrician, Child Protection Unit, The Children’s Hospital Westmead, NSW paul.hotton@health.nsw.gov.au
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- Dr Katherine Jarosz – Forensic Paediatrician, Royal Darwin Hospital, NT Katherine.jarosz@nt.gov.au

- Dr Anagha Jayakar – Community Paediatrician, Clinical Lead, Paediatric Sexual Abuse Care Tasmania Health Service – South, TAS Anagha.jayakar@ths.gov.au
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SUPPORT INFORMATION

The research aims

The aim of this project is to explore the impacts on paediatricians of receiving subpoenas and testifying in court in cases of child maltreatment. Anecdotal evidence suggests that many paediatricians find child maltreatment work, receiving subpoenas and testifying in court to be challenging and stressful. Little is currently known about the positive and negative impacts of this work on Australian and New Zealand paediatricians.

Your involvement

Your participation in this survey is voluntary and you may choose not to complete any question in the survey.

Privacy and confidentiality

All your responses will be kept strictly confidential to ensure your privacy. No clinician identifiers will be requested on the survey and returned surveys will be allocated an individual survey number at the time they are received. Data from the surveys will be stored on secure servers at The University of Sydney and The Sydney Children's Hospitals Network, and paper copies in the APSU locked filing cabinets at The Sydney Children's Hospitals Network.

All survey data will be fully de-identified and only group summary data will be presented in reports or publications. The individual identity of paediatricians who are contributors to the APSU will not be disclosed in any external reports or publications but will be collectively acknowledged as "contributors to the APSU".

Consent and withdrawal

Participation in this study is entirely voluntary and you are under no obligation to complete the survey. Your completion of the case report form implies consent to participate, however, should you wish to withdraw your response after completion, please contact us by email at SCHN-APSU@health.nsw.gov.au

Risks and benefits

There is a risk to privacy and confidentiality of participating in this study, which may be a perceived risk to reputation, however strict confidentiality of survey responses will be maintained (as detailed above), and data used in research reports and publications will only contain aggregated data which will not identify individual participants or their responses. There may also be a small of burden of time in completing the surveys, however this is no different to the time taken to complete case report forms of rare diseases and uncommon conditions of childhood to the APSU, which paediatricians are already doing routinely. It is possible that some paediatricians will find some survey questions distressing. If questions in this study cause distress or stress then psychological support services are available including employee assistance programs at your health service (see list of support services and their contact details below).

The benefits of the study are to provide information on paediatricians' experiences of receiving subpoenas and testifying in court in cases of suspected child maltreatment, which may lead to improvements in education and training for paediatricians, however paediatricians will not personally benefit from their participation in the study.

Support Programs available to RACP members

Reach out to the [RACP Support Program](#) for free, 24/7, for completely confidential support. Make an appointment or speak with a consultant on [1300 687 327](tel:1300687327) (Australia) or [0800 666 367](tel:0800666367) (Aotearoa New Zealand).

The [Doctors' Health Advisory Service](#) has dedicated helplines in each Australian state and Aotearoa New Zealand. Call 02 9437 6552.

Doctors and medical students can call 1300 374 377 (1300 DR4 DRS) or visit Drs4Drs.com.au

Broader Supports available:

Telephone and online support services are available in the community.

Service	Focus	Phone number	Operating hours
Emergency (Police, Fire, Ambulance)	Emergency assistance	000	24 hours/7 days
Beyond Blue	Depression, anxiety and related disorders	1300 22 4636	24 hours/7 days
Lifeline	Crisis support, suicide prevention and mental health support services	13 11 14	24 hours/7 days
SANE	People affected by complex mental health issues	1800 187 263	10am – 10pm weekdays

Contact Principal Investigator

Should you wish to discuss anything about your experiences receiving a subpoena or testifying in court in cases of child maltreatment then you can contact the principal investigator below;

Dr Alyce Horstman
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Victorian Forensic Paediatric Medical Service
Royal Children's Hospital
50 Flemington Road, Parkville
Phone: 0400 002 326
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All research in Australia involving humans is reviewed by an independent group of people called a Human Research Ethics Committee (HREC).

This study has been approved by the Sydney Children's Hospitals Network (SCHN) HREC (approval number: **2024/ETH01004**).

If you have any concerns or complaints about any aspect of the project or the way it is being conducted, you may contact the Executive Officer of the SCHN HREC on (02) 7825 1253 or SCHN-Ethics@health.nsw.gov.au.