

*The life of each child who has suffered abuse or neglect is critically affected by both the incident itself and the response of those who intervene. Judges, as community leaders, can be the catalysts that bring the community and professionals together to ensure that the court experience is a successful one for children and youth. - Judge J. Dean Lewis, Editor*

### Topics in this issue:

---

#### [Editor's Page—Children and Youth Involved in the Court Experience](#)

*J. Dean Lewis, Judge (retired), Former Member, National CASA Association Board of Directors and Past President, National Council of Juvenile and Family Court Judges*

Page 3

---

#### [Child Witness Waiting Rooms Help Minimize Children's Discomfort](#)

*RuAnn Root, Executive Director, CASA of South Central Nebraska*

Page 5

---

#### [Role of Mental Health Professionals in Preparing Children for Court](#)

*Barbara Ryan, Director of Clinical Services, Chadwick Center for Children and Families*

*Deena Brooks, Kids and Teens Coordinator, Chadwick Center for Children and Families*

*Carrie Epstein, Senior Director of Child Trauma Programs, Safe Horizon*

*Patricia Lacey, Director of Forensic and Clinical Services, Safe Horizon's Jane Barker Brooklyn Child Advocacy Center*

Page 6

---

#### [Explaining the Court Experience to Children](#)

*Felicity Peck, Volunteer, CASA of Davidson County*

Page 8

---

#### [My Voice, My Life, My Future: Youth Participation in Court](#)

*Miriam Aroni Krinsky, Executive Director, Children's Law Center of Los Angeles*

Page 10

---

#### [Recent United States Supreme Court Rulings on the Confrontation Clause](#)

*J. Dean Lewis, Judge (retired), Former Member, National CASA Association Board of Directors and Past President, National Council of Juvenile and Family Court Judges*

Page 11

---

#### [Confidentiality in Child Protection Proceedings: Closed Versus Open Hearings—Is There a Better Way?](#)

*Douglas F. Johnson, Treasurer, National Council of Juvenile and Family Court Judges*

Page 13

---

---

**[Protecting and Supporting Children in the Child Welfare System and the Juvenile Court](#)**

Barbara Ryan, Director of Clinical Services, Chadwick Center  
Judge Cynthia Bashant, San Diego County Juvenile Court  
Deena Brooks, Kids and Teens Coordinator, Chadwick Center  
(Pages 61 - 69 from the Winter 2006 Juvenile and Family Court Journal)

Page 15

---

**[The State of the Debate about Children's Disclosure Patterns in Child Sexual Abuse Cases](#)**

Judge Cindy Lederman, Miami Juvenile Justice Center  
Erna Olafson, Associate Professor of Clinical Psychiatry and Pediatrics, University of Cincinnati Medical School  
(Pages 27 - 40 from the Winter 2006 Juvenile and Family Court Journal)

Page 24

---

**[Handbook on Questioning Children: A Linguistic Perspective](#)**

Anne Graffam Walker, Forensic Linguist

Page 38

---

**[Online Resources](#)**

Paula Campbell, Permanency Planning for Children Department, NCJFCJ

Page 39

---



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## Editor's Page— Children and Youth Involved in the Court Experience



*J. Dean Lewis, Judge (retired), Former Member, National CASA Association Board of Directors and Past President, National Council of Juvenile and Family Court Judges*

### Summary

When dealing with children involved in the court experience, a skilled response appropriate to the child's developmental needs by those in law enforcement, the child welfare system and the legal system contributes to the child's chance for a successful outcome.

As we publish this issue of *The Judges' Page*, there is good news to share. According to recent data released by the U.S. Department of Health and Human Services in a publication entitled *Child Maltreatment 2004* (<http://www.acf.hhs.gov/programs/cb/pubs/cm04/index.htm>), child neglect and certain forms of child abuse continue on a downward trend.

The life of each child who has suffered abuse or neglect is critically affected by both the incident itself and the response of those who intervene. A skilled response appropriate to the child's developmental needs by those in law enforcement, the child welfare system and the legal system contributes to the child's chance for a successful outcome.

**This issue of the Judges' Page addresses the subject of how judges, CASA volunteers and other stakeholders can make the court experience successful for children and youth who are the subject of child protection and foster care hearings.**

*Following are six guiding principles to consider:*

1. Make appropriate courthouse accommodations for children and youth who may be required to testify in civil and/or criminal cases.
2. Ensure that trained professionals explain the court process to children and youth.
3. Judges should afford children and youth an opportunity to be present and involved in a meaningful way in their dependency court hearings.
4. Dependency court judges and attorneys should be knowledgeable of case law, rules of evidence and court rules that impact child welfare hearings and be informed as to best practices in conducting dependency hearings.
5. Those presenting the case to the court should have access to mental health, linguistic and child development experts.
6. Professionals involved in the dependency court should receive cross training on court rules and procedures.

### Articles and Links:

- [RuAnn Root](#), Executive Director of CASA of South Central Nebraska, explains how her community responded to the need for a child friendly witness waiting area.
- [Barbara Ryan, Deena Brooks, Carrie Epstein and Patricia Lacey](#) discuss the role of mental health professionals in preparing children for court.

- [Felicity Peck](#), a CASA volunteer in Nashville, Tennessee shares her personal experience of ensuring that children are prepared for court.
- Martha J. Finnegan of the American Prosecutors' Research Institute has written a guide for communities that are considering establishing a "Kids Court" program to prepare children to testify in court. It can be found online at the ARPI website. ([ndaa-apri.org/publications/newsletters/update\\_volume\\_13\\_number\\_5\\_2000.html](http://ndaa-apri.org/publications/newsletters/update_volume_13_number_5_2000.html))
- [Miriam Aroni Krinsky](#) of the Children's Law Center of Los Angeles shares the thoughts of foster youth who responded to the first national survey ever conducted in *My Voice, My Life, My Future: Youth Participation in Court*.
- [My article](#), *Recent United States Supreme Court Rulings on the Confrontation Clause*, describes the potential effects that three US Supreme Court rulings could have on requiring children to testify in court.
- [Judge Douglas Johnson](#) addresses the debate as to whether hearings involving children should be public or private.
- [Barbara Ryan, Judge Cynthia Bashant and Deena Brooks](#) offer a guide to best practices for dealing with children in court.
- [Judge Cindy Lederman and Erna Olafson](#) help us to understand the responses of children to sexual abuse.
- [Anne Graffam Walker](#), a forensic linguist, educates us about children and language in *Handbook on Questioning Children: A Linguistic Perspective*.
- Judge William Jones' new manual *Working with the Courts in Child Protection* provides essential information about the court process for the non-lawyer. ([childwelfare.gov/pubs/usermanual.cfm](http://childwelfare.gov/pubs/usermanual.cfm))
- [Paula Campbell](#) of the National Council of Juvenile and Family Court Judges article about online resources includes valuable information about all aspects of the child's court experience.

Judges, as community leaders, can be the catalysts that bring the community and professionals together to ensure that the court experience is a successful one for children and youth.

**Item of interest:** Connie Stephens, executive director of the Hall-Dawson CASA Program, utilized an article the National Council of Juvenile and Family Court Judges' publication *Juvenile and Family Justice TODAY* to gain funding for her CASA program. Congratulations to Connie for submitting a successful proposal requesting that funds from an upcoming medical center golf tournament benefit Hall-Dawson CASA's campaign to secure a permanent home for their program. In her application, Connie referenced the article "The Essential Advocate: Using CASAs to Promote Child Well-Being" ([nationalcasa.org/download/Judges\\_Page/0702\\_TODAY\\_summer\\_06\\_0119.pdf](http://nationalcasa.org/download/Judges_Page/0702_TODAY_summer_06_0119.pdf)) from the NCJFCJ publication to demonstrate the connection between the mission of the medical center and the efforts of CASA volunteers to address deficiencies in delivery of medical care to foster children.

Our hats are off to Connie and our thanks to NCJFCJ for publishing the article.

[Back to Top](#)

## ***Child Witness Waiting Rooms Help Minimize Children’s Discomfort***

*RuAnn Root, Executive Director, CASA of South Central Nebraska*

### **Summary**

When events surrounding the court case of an eight-year-old girl demonstrated the need for a separate witness waiting area for children, the community responded.

We all have examples of the unfair treatment of children in our criminal justice system. In our county, one of our more dramatic stories involved the lack of a child witness waiting room.

In our courthouse in Adams County we had just one waiting room—a central lobby area—where children, victims, witnesses and the accused sat together awaiting their trial. Needless to say, this created some uncomfortable moments for everyone, especially children.

The events surrounding the case of “Jasmine” (name has been changed) forced our community to confront the problem. Jasmine, age 8, came to the attention of the Department of Health and Human Services after her mother repeatedly kicked her from behind while walking two blocks, leaving numerous bruises. The child was placed with newly trained foster parents who did not come to court prepared to wait for three hours until Jasmine could testify at the adjudication against her mother. The adjudication was scheduled for a Friday, which in Adams County is also drug court day. Jasmine was forced to sit in the lobby waiting area with approximately 25 convicted drug addicts, three witnesses to her abuse, and her mother’s current boyfriend. During one of the breaks of the adjudication, her mother walked passed Jasmine and told her this was all her fault.

By the time Jasmine had to testify, she had melted into an emotional “zombie.” She refused to walk into court. The police officer who investigated the case had to carry her in. She began to cry, stating that she “was sorry” and begging to “go home.” It was the belief of everyone involved with this case that the child suffered a second abuse at the court house that day due to our inability to comfortably accommodate children appearing in the court system.

This case resonated in the minds of everyone involved and a community ad hoc team meeting was called to explore ways to improve our juvenile criminal justice system. The team consisted of our local county attorney, a public defender, a judge, paid guardian ad litem and CASA volunteers, as well as representatives of the Adams County Victim Witness Unit, Spouse Abuse/Sexual Assault Crisis Center, Foster Care Review and the Department of Health and Human Services.

We discussed creating a waiting room that was warm and welcoming but would not hinder testimony. We discussed the vast number of people who would use the room and the different ways people are calmed, whether by music, reading, watching TV or playing video games. We knew the room would need to offer diverse forms of entertainment and comforts to meet different needs.

We wrote to our local grant funding organization, The Hastings Foundation. They enthusiastically supported our grant request and we were able to purchase all of the materials we requested.

“Michael,” age 7, was the first child that used our room. His story, although very similar to Jasmine’s, ended up differently because of the way we were able to respond to his needs. Instead of having to wait in the lobby area, Michael could immediately go into the child witness room, while “Frank”—his mother’s 25-year-old boyfriend that was accused of sexually touching Michael—waited in a separate area

Michael looked around at the funny posters, the recliners and the tiger rug, and said he “loved this room” and wished he had all this stuff “at his house.” He played a hand-held video game most of the time he had to wait. As a matter of fact, when the bailiff came to the room to get him, Michael asked if the judge could wait until after his game of Donkey Kong was over. His response after court was, “I thought court was going to be boring, but it was kind of fun, all except that talking to the judge stuff.”

[Back to Top](#)

## Role of Mental Health Professionals in Preparing Children for Court

*Barbara Ryan, LCSW, ACSW, BCD, Director of Clinical Services at the Chadwick Center for Children and Families*

*Deena Brooks, MSW, Kids and Teens Coordinator, Chadwick Center for Children and Families*

*Carrie Epstein, LCSW-R, Senior Director of Child Trauma Programs, Safe Horizon*

*Patricia Lacey, LCSW, Director of Forensic and Clinical Services, Safe Horizon's Jane Barker Brooklyn Child Advocacy Center*

### Summary

Court preparation programs staffed by specialized mental health professionals play an important role in alleviating stress and anxiety for child victims and witnesses.

Children who testify in court face a potentially frightening and even overwhelming task. Describing details of abuse, testifying in front of strangers, facing the defendant and the court environment itself can all produce distress. Conversely, the ability to face their perpetrators and relate their experiences can be empowering for some children, and also promote feelings of mastery in other areas of their lives also. While research has not demonstrated lasting negative effects on children from court participation, for some, testifying in court can add additional stressors to preexisting traumas, potentially causing further psychological damage.

Because of the complex needs of traumatized children, court preparation programs are most appropriately housed in mental health programs staffed by therapists who have specialized training in treating traumatized children. One such program is Kids and Teens in Court (KTIC) operated in San Diego at Rady Children's Hospital Chadwick Center for Children and Families. This model helps avoid or minimize system-induced stress or trauma. Program elements are derived from evidence-based research on the benefits of cognitive behavioral interventions for traumatized children (Cohen, Mannarino, and Deblinger, 2006; see also [www.musc.edu/tfcbt](http://www.musc.edu/tfcbt)).

In 2006, the program modified its protocol to incorporate psychoeducational, behavioral and cognitive components into its interventions. During sessions, children are desensitized to the courtroom process through activities that help reduce stress and anxiety, increase cognitive coping and emotional regulation and correct possible inaccurate cognitions about self, others and about the court process. The interventions also help the participants manage trauma triggers or reminders. Trauma reminders are places, people, experiences, or sensory stimuli that serve as reminders of the original trauma, bringing about distressing mental images, thoughts and emotional or physical reactions. Facing the defendant and recounting details of the trauma in court can serve as trauma reminders.

KTIC therapists guide children in learning relaxation techniques that can aid them in suppressing or counteracting anxiety. Other court preparation programs in Canada using similar techniques have found they have helped children deal with stress and anxieties related to both the abuse and to testifying, and were effective in reducing the children's fears (Whitcomb, 2003). Children also learn techniques such as thought-stopping, which can be helpful if they become overwhelmed by distressing thoughts. Often, when children experience a trauma, they feel the experience was out of their control. This feeling of loss of control can spread to other aspects of their lives, including a feeling of lack of control over their thoughts. By using the strategy of thought-stopping, children learn that they can control their own thoughts, which can help them focus on the task at hand, their courtroom testimony.

During KTIC, children also learn that they do have some control over the pace of their testimony and their own comfort level. For example, children behaviorally rehearse asking for a glass of water or requesting a break while on the witness stand. An important aspect of this particular program is that the behavioral rehearsal occurs in a real courtroom. This allows children to test their newly acquired skills in vivo, or in the situation that may create significant anxiety for them. **It is important to note that KTIC does not at any time ask children to discuss the facts of their case in order to avoid even the appearance of coaching children in their testimony.**

One consistent finding across studies is the positive effect of maternal support (or support from the non-offending caregiver) on children's well-being as they navigate the court process. To this end, KTIC uses a parallel process whereby caregivers attend a psychoeducational group in which they learn the impact of trauma on children and are taught ways to support their children in managing their thoughts and emotions before, during and after their testimony.

A final component of the KTIC program includes children becoming familiar with the courtroom's structure and personnel. Children learn where the defendant sits and ways to avoid looking at him or her if that will be frightening or uncomfortable for them. Children also meet with a bailiff and a judge. The bailiff emphasizes safety and order in the courtroom. Interaction with the judge can increase the accuracy of children's cognitions about how a judge relates to witnesses and can serve to reinforce the seriousness of the proceedings.

Court preparation programs play an important role in alleviating stress and anxiety for child victims and witnesses. Through behavioral and cognitive interventions, children learn that they have some control over the experience of testifying in court. These skills can be easily transferred to other areas of the children's lives, thus having the potential to enhance their overall functioning, self-esteem and confidence in managing their lives. With assistance from judges, bailiffs and other court personnel, children and their families can emerge from the experience feeling empowered with the knowledge they can make a difference.

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[Back to Top](#)



## Explaining the Court Experience to Children

*Felicity Peck, Volunteer, CASA of Davidson County*

### Summary

A CASA volunteer explains how she shares information and advice that helps children prepare for their day in court.

One of the scariest moments for children whose future lies in the hands of the court is their appearance before the judge.

Think about it for a moment. A judge is an adult who children have only seen and heard on television, where a judge is a person who sends bad people to jail. Frequently children are afraid that they are going to jail because they think they are somehow responsible for the upheaval in their family.

These children have been abused or neglected by an adult, removed from their home and sometimes separated from their siblings. The children hear the judge request a CASA volunteer and are told that an advocate is going to be appointed. "Advocate" is a word that the children may not have heard before. This advocate is another adult and the children are very scared.

That volunteer's job is not only to investigate the circumstances of the child's family life in order to advocate in their best interest, but also to gain the trust and confidence of the children. It is especially important that the CASA volunteer has the confidence of older children, because sometimes the CASA volunteer is the only constant figure in the children's lives. Attorneys, case managers and occasionally judges change before a child is in a safe, stable and permanent home.

To prepare older children for a court appearance, I explain to them who is who in the courtroom. I tell them about the role of the judge who makes decisions based on the law. I describe the role of their guardian ad litem who takes care of their legal matters and, in Tennessee, informs the judge what the children want. I tell them that their case manager is working to reunite them with parents or a close family member. And I let them know and that I, the CASA volunteer, will tell the court what I feel is in their best interest. I explain to the children that I will also tell the court what they think and desire, but that I will not necessarily tell the court that what the children desire is in their best interest.

From a practical point of view I coach the children to have "nice manners" in the court room. I ask them to look up at the judge and to speak clearly. I tell them to be prepared to answer questions, and if they don't understand, to ask for the question to be repeated.

I also give advice about the correct way to dress, such as no bare midriiffs or droopy pants. I explain that although there is nothing wrong with dressing this way, those types of casual clothes do not show respect for the court.

Most importantly, because appearing in court is a very scary experience for children, I tell them to look around in the court room and remember that everyone present is there because they are interested only in ensuring that child's safety and well being.

[Back to Top](#)



# My Voice, My Life, My Future: Youth Participation in Court

Miriam Aroni Krinsky, Executive Director, Children's Law Center of Los Angeles

## Summary

By enabling children and youth to participate in dependency court proceedings, judges, attorneys, CASA volunteers and others can begin to help foster youth take charge of their lives as they move into adulthood.



New Home, New Joy – Michael

“I would like to have some involvement in how my life is run,” said a former foster youth from Hawaii, “even if it’s just sitting in the courtroom while it’s being discussed.” These sentiments—and the anguish associated with being isolated from a process that will chart their lives’ paths—were echoed by current and former foster youth from around the country in a recent national survey.

It is well established that the dependency court and legal process plays a critical role in determining the fate of abused and neglected children. Dependency judges serve as gatekeepers, deciding whether youth will come under the protection of the foster care system in the first instance, how long they will remain under court and child welfare jurisdiction and what their daily life will look like while under court oversight. Yet foster children and

youth are often absent from or lack a voice in court proceedings, when decisions are made that will profoundly impact their future.

More than one-in-four foster youth who responded to a nationwide survey reported that they never attended court hearings, while almost half (46%) state their experience in foster care would have been different had they been an engaged part of the court process. The survey of more than 2,000 current and former foster youth, judges, lawyers, social workers, CASA volunteers and other professionals was conducted by Home At Last, a project that promoted action on the recommendations of the nonpartisan Pew Commission on Children in Foster Care.

Survey results revealed that many youth were disengaged from or uninformed about the dependency court and legal process. Over a third (39%) did not know they were allowed to go to court, and more than 40% did not know the dates of their hearings. Among youth respondents who did attend court, 60% said that it was helpful and that their presence yielded real benefits, ranging from being able to take an active role in decisions being made about their lives to simply being able to be present and hear what transpires as decisions that inherently impact their future are being made.



Self Portrait - CJ

Many child welfare professionals responding to the survey agreed that foster youth participation is important, yet only 8% of child welfare professional respondents believe that youth should always be present at their dependency court hearings, and only about one-quarter of adults surveyed (28%) believe that youth should be present most of the time. A majority (59%) of child welfare professionals said youth should be present only sometimes.

Creating a place for youth in the legal process is not an easy task. Some judges and lawyers expressed concern that the court process may be too complex for youth to understand. For youth to meaningfully participate in court proceedings, judges, lawyers and CASA volunteers must all work together and strive to help children understand, in age appropriate terms, the purpose of the hearing, what issues might be discussed, what type of information might be helpful for them to share and what issues are suitable to raise in court.



What Could Have Been – Scarlet

Adult professionals also worry that information discussed in court may be too disturbing or upsetting for youth to hear. Yet, as former Juvenile Court Judge William G. Jones noted, we “should keep in mind that children are involved in the court process because of real-life events they have experienced. They have already been exposed to and survived the harsh realities of their lives that will be discussed in court.”

Finally, while attending court may involve absence from school or inconvenience for the youth, Judge Jones observed, “If we place a high value on a youth’s presence in court, we need to treat that time commitment with the same degree of seriousness associated with doctor, dentist and other appointments that routinely result in time away from school.”

In the past year, “Youth Summits” held in nearly a dozen states, helped foster youth gain the tools necessary to become an engaged and empowered part of the child welfare and legal process. These gatherings brought current and former foster youth together with community leaders to discuss youth participation and presence in court and provided unprecedented opportunities for youth to articulate their views on foster care policies and practices.

By enabling children and youth to participate in dependency court proceedings, judges, attorneys, CASA volunteers and others can begin to help foster youth take charge of their lives as they move into adulthood. We can give abused and neglected children a better chance to flourish by ensuring that their presence and participation is welcomed in court and in the judicial decisions that will shape their future. They need and deserve that opportunity.

## **Youth Writing Excerpts:**

### ***To the Judge***

*Please don't put me in a place, a place of horror and violence. Let me stay in a home with loving parents that care for me.... I want to be somewhere where I can live life as a child, in a better situation. Can you find a home that is truly good and where the people will help me? You are the one who makes the decisions, and I need to be heard so people may understand how I feel or what I need. Can you turn back the hands of time to make it all go away? Listen to me, since no one else will, and try to understand where I'm coming from. Maybe I am a child, but I'm not dumb; I know right from wrong. My life isn't great. It's sort of good, but in times of bad situations I'm misunderstood. I need to know that you will make the right decisions for me so that I can live life the way it's supposed to be.*

*Antoinette, age 14*

### ***My Voice, My Life, My Future***

*Nothing worth knowing, nowhere worth going  
Solutions to problems coming, but coming too slow  
Told that failure is who I am and all I could be  
Decisions made for me, not respecting who I am or want to be  
Voicing words not just to be said, but to be heard  
Words not just of sound but of thoughts  
Speaking knowledge, spirit, and fact  
Keeping faith, heart, and soul intact  
Thinking of my future, who and where will I be  
Rage hidden inside unable to see  
I faced my fears and drove them out  
That's what this poem and I are really about  
Also about something called courage, don't you know  
I have it, and I take it with me wherever I go.*

*Paul, age 16*

[Back to Top](#)

## Recent United States Supreme Court Rulings on the Confrontation Clause

*J. Dean Lewis, Judge (retired), Former Member, National CASA Association Board of Directors and Past President, National Council of Juvenile and Family Court Judges*

### Summary

The decisions in three US Supreme Court cases involving the Confrontation Clause of the Sixth Amendment have the potential to impact statutes and rules of evidence that have shielded children from court appearances in the past.

Many child protection proceedings involve both a civil and a criminal case. The child victim's testimony may be required in either or both of these cases. Statutes have been enacted and rules of evidence have been adapted over the years to protect children from testifying in open court in certain situations. Statutes have allowed testimony by closed-circuit television or by use of a videotaped interview conducted by social services in cases involving young children determined by a judge to be unavailable (based on strict statutory factors) to testify in open court where the defendant is present. Rules of evidence have permitted the child's out-of-court statements to be introduced into evidence under certain hearsay exceptions such as excited utterances; state of mind; present sense impressions; medical records; and prior consistent or inconsistent statements.

Three recent United States Supreme Court cases have ruled on the Confrontation Clause of the Sixth Amendment:

- *Crawford v. Washington*, 124 S. Ct. 1354 (2004) ([caselaw.lp.findlaw.com/scripts/printer\\_friendly.pl?page=us/000/02-9410.html](http://caselaw.lp.findlaw.com/scripts/printer_friendly.pl?page=us/000/02-9410.html))
- 126 S. Ct. 2266 (2006), *Davis v. Washington*, No. 05-5224 and *Hammon v. Indiana*, No. 05-5705 ([caselaw.lp.findlaw.com/scripts/getcase.pl?court=US&vol=000&invol=05-5224](http://caselaw.lp.findlaw.com/scripts/getcase.pl?court=US&vol=000&invol=05-5224))

These cases involved out-of-court statements of adult witnesses in adult criminal cases. However, attorneys for children and child advocates have been monitoring the implications of these decisions and have expressed concern as to the decisions' potential effect on established statutes and rules of evidence that have shielded children from court appearances in the past.

([www.naccchildlaw.org/training/documents/DavisHammonBriefFinal.pdf](http://www.naccchildlaw.org/training/documents/DavisHammonBriefFinal.pdf))

In *Crawford*, decided in 2004, the US Supreme Court held that testimonial hearsay statements are inadmissible in a criminal case because they violate the defendant's Sixth Amendment right to confrontation. In this case, the defendant told law enforcement that he acted in self defense. Mr. Crawford stabbed a man who had tried on an earlier occasion to rape his wife. Mrs. Crawford gave police a tape recorded statement in which she corroborated her husband's statement in part. However, her statements did not corroborate his statement that the victim had drawn a weapon prior to Mr. Crawford stabbing him. At trial, the defendant's wife asserted spousal privilege and the prosecutor proceeded to introduce her taped statement. The defendant objected based upon the Confrontation Clause of the Sixth Amendment. In Washington state spousal privilege does not extend to a spouse's out-of-court statements admissible under a hearsay exception. Mrs. Crawford's statement was admitted by the lower court under the hearsay exception for statements against penal interest because she had facilitated the assault by leading her husband to the victim's apartment. Defendant argued that state law notwithstanding, admitting the out-of-court statement would violate his federal constitutional right to confront witnesses against him. The lower court permitted the introduction of the tape and defendant was convicted. On appeal to the United States Supreme Court, the tape was excluded.

The Court goes through a lengthy historical analysis of the Confrontation Clause and the limited exceptions that have evolved in Supreme Court decisions. The Court wrote:

*Our cases have thus remained faithful to the Framers' understanding: Testimonial statements of witnesses absent from trial have been admitted only where the declarant is unavailable, and only where the defendant has had a prior opportunity to cross-examine.*

The Court went on to state:

*We leave for another day any effort to spell out a comprehensive definition of "testimonial." Whatever else the term covers, it applies at a minimum to prior testimony at a preliminary hearing, before a grand jury, or at a former trial; and to police interrogations.*

In *Davis*, decided on June 19, 2006, the Court distinguished testimonial and nontestimonial hearsay statements made to police officials. The Court wrote:

*Statements are nontestimonial when made in the course of police interrogation under circumstances objectively indicating that the primary purpose of the interrogation is to enable police assistance to meet an ongoing emergency. They are testimonial when the circumstances objectively indicate that there is no such ongoing emergency, and that the primary purpose of the interrogation is to establish or prove past events potentially relevant to later criminal prosecution.*

The Court ruled that the out-of-court statement made by the victim to a 911 operator in which the victim identified Davis as her assailant was admissible as a nontestimonial hearsay statement. The victim did not testify at trial. The Court went on to indicate that certain portions of 911 conversations may be nontestimonial and others may be testimonial hearsay. After the initial identification of Davis to the 911 operator while he was in the victim's home, Davis departed the scene. The 911 operator thereafter questioned the victim extensively. The Court notes that it could be maintained that the portion of the 911 call which transpired after the emergency was over and once interrogation began could be deemed testimonial. The Court explains that the Washington Supreme Court concluded that even if parts of the 911 call were testimonial, their admissibility was harmless beyond a reasonable doubt, a ruling Mr. Davis did not challenge.

In the *Hammon* case, the Court ruled that the out-of-court statement of the victim made during an interview conducted by a police officer after the emergency had passed was a testimonial hearsay statement and therefore inadmissible.

It is certainly not clear what impact these three US Supreme Court decisions will have on civil and criminal litigation involving children. In "Crawford v. Washington One Year Later: Its Practical Effects in Child Abuse and Domestic Violence Cases," NCJFCJ Juvenile and Family Court Journal, Fall 2005, Vol. 56, No.4, page 1, ([nationalcasa.org/download/Judges\\_Page/%200702\\_Crawf\\_v\\_Wash\\_Fall\\_05\\_0119.pdf](http://nationalcasa.org/download/Judges_Page/%200702_Crawf_v_Wash_Fall_05_0119.pdf)) authors Judge David M. Gersten and Judge Amy Karan conduct an in-depth review of the issue and conclude that *Crawford* has had a minimal impact on child abuse and domestic violence prosecutions. *Davis* and *Hammon* were decided too recently to assess their impact.

What is very clear, however, is that judges, prosecutors, and attorneys for social services, parents and children should be thoroughly familiar with these three cases. They should be prepared to address issues which may arise in child protections proceedings based upon objections to out-of-court statements in which the holdings in these cases form the basis for the objection.

**For further information on the Confrontation Clause, see the following articles:**

National Council of Juvenile and Family Court Judges publication *Juvenile and Family Law Digest*:

- "Abuse, Neglect and Dependency—Confrontation Clause. *State v. Wedgeworth*," involving closed circuit procedure for examining witnesses under the age of 13 in Kansas. Published in October 2004, Volume 36, Number 10. ([nationalcasa.org/download/Judges\\_Page/%200702\\_State\\_v\\_Wedge\\_Oct\\_04\\_0119.pdf](http://nationalcasa.org/download/Judges_Page/%200702_State_v_Wedge_Oct_04_0119.pdf))
- "Domestic Abuse-Confrontation Clause. *Davis v. Washington*" published in July 2006, Volume 38, Number 7. ([nationalcasa.org/download/Judges\\_Page/%200702\\_Davis\\_v\\_Wash\\_July\\_2006\\_0119.pdf](http://nationalcasa.org/download/Judges_Page/%200702_Davis_v_Wash_July_2006_0119.pdf))
- "Child Forensic Interviews after *Crawford v. Washington*: Testimonial or Not?" American Prosecutors Research Institute (APR) Fall 2005 publication "Half A Nation." ([www.ndaa-apri.org/publications/newsletters/han\\_newsletter\\_fall\\_2005.pdf](http://www.ndaa-apri.org/publications/newsletters/han_newsletter_fall_2005.pdf))

[Back to Top](#)

## Confidentiality in Child Protection Proceedings: Closed Versus Open Hearings—Is There a Better Way?



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### Summary

In child protection proceedings, open hearings with judicial discretion to close are the recommended middle ground that ensures the best interests of children, provides due process for parents and the public and allows confidentiality in proceedings when needed.

Depending on your state statute, you may have open dependency proceedings, closed dependency proceedings or something in between. Recognizing that this is a lively issue, and disregarding how one may feel about it, a judge must follow the law.

This article takes a look at a recommended middle ground that ensures the best interests of children, provides due process for parents and the public and allows confidentiality in the proceedings when needed: open hearings with judicial discretion to close.

For a primer on the subject, see the June 2004 Technical Assistance Brief published by the Permanency Planning for Children Department of the National Council of Juvenile and Family Court Judges, "To Open or Not to Open: The Issue of Public Access in Child Protection Hearings."

[nationalcasa.org/download/Judges\\_Page/%200702\\_Open\\_Closed\\_Hearings\\_0119.pdf](http://nationalcasa.org/download/Judges_Page/%200702_Open_Closed_Hearings_0119.pdf)) This in-depth brief intelligently and thoroughly sorts through the debate that began at the inception of the first juvenile court in Cook County, Illinois (1899) and continues to this day. The essential arguments can be fairly summed up this way: Closed proceedings protect children and their families from potential damage of a scrutinous public eye; open courts encourage accountability for properly conducted hearings and allow better community understanding of the complex child welfare system and issues in serving abused and neglected children and their parents. The brief provides a chart with every state's hearing status and statutory references. Please check your current statute as the law is rapidly changing across the country.

The year following the brief, after much committee work and debate, the membership of the National Council of Juvenile and Family Court Judges presented a resolution on the open/closed court issue. At its 68th Annual Conference in Pittsburgh, Pennsylvania (2005), the membership took a significant position which adds to the national debate by approving "Resolution No. 9: Resolution in Support of Presumptively Open Hearings with Discretion of Courts to Close."

[nationalcasa.org/download/Judges\\_Page/0702\\_resolution\\_9\\_oen\\_hearings\\_0119.pdf](http://nationalcasa.org/download/Judges_Page/0702_resolution_9_oen_hearings_0119.pdf)) This resolution represents the majority view of the council's judges who work every day in juvenile and family courts. They are keenly sensitive and committed to providing appropriate, meaningful and just hearings for children and parents. They are also respectfully aware and responsive to the public's interest in the challenging work of the court.

Among the many "whereas" in the resolution, the last one opined: "Open court proceedings will increase public awareness of the critical problems faced by juvenile and family courts and by child welfare agencies in matters involving child protection, may enhance accountability in the conduct of these proceedings by lifting the veil of secrecy which surrounds them, and may ultimately increase public confidence in the work of the judges of the nation's juvenile and family courts."

And so, Resolution No. 9 resolved that "our nation's juvenile and family courts be open to the public except when the juvenile or family court judge determines that the hearing should be closed in order to serve the best interests of the child and/or family members." Hopefully, Resolution No. 9 will be an impetus for legislative change. If all states had presumptively open hearings with discretion of courts to close for good cause (12 states did as of 2004), then a judge could make the decision case-by-case. Each child and parent, as well as the public, would have an opportunity to be heard on the issue of confidentiality.

Just as in other matters, the decision would be made on the merits of the evidence presented, and just as in other matters, not everyone will agree with the judicial decision. But if Resolution No. 9 were the law of the land, then whether confidentiality is sought or not, the quality of the evidence and its presentation through strong advocacy will result in justice, as in other matters that are presented for judicial decision. As in all controversial legal matters, the people would look to the judge to make a decision after notice and opportunity to be heard, yielding due process and fundamental fairness, all on the record. Remember attorneys and CASA/GAL volunteers:  
*Semper paratus!*

[Back to Top](#)



# Protecting and Supporting Children in the Child Welfare System and the Juvenile Court

BY BARBARA RYAN,  
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## ABSTRACT

The impact of childhood trauma can be substantial and long term. Prevention of additional trauma should be the guiding principle for all professionals working with children in the child welfare and juvenile court systems. This article addresses ways these two systems can protect and support children before they enter the courtroom. This is accomplished by obtaining, sharing, and utilizing a complete trauma history on the child, as well as putting measures in place to protect against system-generated trauma. It will also address how to reduce the trauma associated with testifying using psycho-educational programs, and involving a caring, sensitive judge.

There I explained the rules of testifying. Tears began rolling down her face. "I can't answer questions. Please don't make me," she pleaded. She was a crucial witness, and I felt her mother had a right to her testimony.

In a flash of inspiration, I suggested Jenny close her eyes. I can still picture the

## INTRODUCTION

Four years ago, 8-year-old Jenny was called by her mother as a witness in a child abuse dependency trial. As a new dependency judge, I can still remember hearing the wails outside the courtroom when Jenny was called to testify: "I don't want to go to court! I don't want to talk to anyone!" I hurriedly handed a stuffed animal to the minor's counsel and suggested she give it to Jenny. Jenny grabbed the animal but her whimpering did not subside.

"How would you like to come back into my office and see pictures of my children? They're just your age, and I have pictures of my dogs back there." My children didn't interest her, but the dogs momentarily piqued her interest, so she reluctantly agreed to be led back to my chambers, followed by a parade of adults: mom's attorney, dad's attorney, county counsel, minor's counsel, social worker, court reporter, and court clerk.

next one and one-half hours, as Jenny answered the lawyers' questions with her eyes squeezed tight so she could not see them, clutching the slightly damp stuffed lion. I wonder if now, four years later, the trauma Jenny remembers is not that of her mother's abuse but the trauma of having to talk about the abuse in front of a half dozen strangers.

As this situation vividly illustrates, the difficulties facing children involved in the child welfare system are formidable. Children often enter the system at the most vulnerable point in their lives. Adults who work within the child welfare and juvenile court systems have the

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responsibility of reducing the risks of retraumatization for children in their care.

### **Children and Trauma**

The majority of children who enter the child welfare system, and subsequently the juvenile court system, do so because they have experienced maltreatment, some severe enough to meet the Diagnostic and Statistical Manual IV definition of trauma (American Psychiatric Association, 2005). In most situations, a person of trust, in a caretaker or guardian role, is responsible for perpetrating the maltreatment or trauma. Enduring multiple traumas is a common occurrence for children in these systems. Generally, complex trauma is the condition of having experienced multiple types of trauma or having experienced trauma for prolonged periods (Cook, Blaustein, Spinazzola, & van der Kolk, 2003). Many types of trauma, including neglect, exposure to domestic violence, physical or sexual abuse, and abandonment might bring children to the attention of either system. As children move through the child welfare and juvenile court systems, they can be exposed to additional stressful, frightening, and emotionally overwhelming experiences, resulting in additional layers of trauma. The child welfare and juvenile court systems can also serve as vehicles for linking children to resources that can promote healing and protect against additional trauma. If the results of childhood exposure to maltreatment, trauma, and severe stressors are not addressed at the earliest opportunity, long-term consequences can occur. Felitti and colleagues have linked multiple adult health risk behaviors and coping strategies that increase the chances for poor health and even early death to childhood stressors, known as Adverse Childhood Experiences, or ACEs (Felitti et al., 1998). An understanding of how childhood trauma occurs and its impact on children, therefore, becomes necessary for all professionals who will have contact with the child. Further, when implemented, trauma-informed practices should help promote the child's healing.

### **Collaboration Among Team Members in Gathering and Understanding the Child's Trauma History**

One trauma-informed practice involves taking a complete trauma history and sharing it with other team members. A committed team including a social worker, foster parent or guardian, therapist, and attorney, in

addition to a supportive and caring judge, can be a strong force working for the recovery of the maltreated child and reducing the risk of system-generated trauma. This is especially true when these individuals work in a complementary manner and follow an individualized, client-specific plan designed to protect and support the child. A common understanding of the child's trauma history is the basis upon which a plan is constructed. Collaborative planning and willingness to benefit from each other's expertise and knowledge of childhood trauma are all necessary elements for the team's successful operation. Sharing knowledge of the child's traumatic experiences can reduce gaps in the child's history and contribute to a more complete, sensitive understanding of that history. An important element in implementing such a plan for a child is finding the time for the key players to communicate about the child and his or her unique plan.

How information on a child's trauma history is gathered and shared was the subject of a study completed by the National Child Traumatic Stress Network (NCTSN) entitled *Helping Children in the Child Welfare System Heal from Trauma: A Systems Integration Approach* (Taylor & Siegfried, 2005). This study surveyed 53 agencies in 11 communities and described a lack of consistency in obtaining a complete and thorough trauma history of a child involved in the child welfare system and in communicating these histories to other professionals. It was found that overall, agencies did not always receive detailed information on a child's trauma history at the time of referral. Among the agencies, there was inconsistent use of a protocol of standardized assessments to determine the existence of Post-traumatic Stress Disorder (PTSD) symptoms. There was also a lack of consistency in gathering such information within a specific agency. Not all agencies gathered information about specific details of the traumatic event, the child's involvement with other agencies, the duration of the trauma and the number of traumatic episodes. Even fewer agencies reported gathering information on the child's trauma reminders and triggers. Each of these details is significant in understanding a complete picture of the child. A process for obtaining this information and communicating it is essential if the court is to make informed decisions regarding the welfare of the child (Taylor & Siegfried, 2005).

Several comprehensive tools developed within the NCTSN are available to guide the process of taking a trauma history that can be provided to the court. One tool is the Core Clinical Characteristics form, developed by the Network in 2004. Categories for gathering historical data include Demographic Information, Demographic Environment, Academic and Medical Histories, Trauma Information, Indicators of Severity of Problems, and Use of Other Services. This form is complex and may require over an hour to complete with the client and caretaker. While it may not be practical for all agencies to use this instrument, it provides a clear example of the categories in which information should be gathered. The Core Clinical Characteristics form is available for reference on the NCTSN website, [www.NCTSN.org](http://www.NCTSN.org).

A tool that requires much less time to administer is the Trauma Profile Tool, which was developed within the NCTSN and will be available on the NCTSN website. This instrument assists child welfare workers in making decisions about the child's mental health needs, based upon the child's exposure to trauma, the developmental point at which the trauma occurred, the severity of the child's trauma stress reactions and the severity of the child's other behavioral issues and their functioning.

Information on the child's trauma history should be shared with other team members, in addition to the judge. When substitute caretakers, such as foster parents or relatives, receive the information obtained in the trauma history, especially information that highlights the connection between the trauma and the child's current behavior, they can support the child more completely. The behavior of traumatized children can present a challenge in a substitute care setting and may result in the disruption of a placement that might have provided the child with a meaningful and stable relationship within which healing could begin.

In many circumstances, knowledge and understanding of the child's specific trauma history, combined with ongoing support and training, allows the caregiver to become an important participant in a healing milieu for the child. One dilemma that these two systems can address is how children will maintain a connection with their families while in substitute care. A sense of continuity, including a sense of how their past and present are tied together, is essential for children in substitute care. Whenever possible, threads of their previous exist-

tence, such as a plan that allows them to attend the same school and to see friends or other relatives, should be woven into their lives in the substitute care setting. At a minimum, children should have pictures of supportive relatives, foster parents or guardians, and locations or events that are significant and familiar to provide them with a sense of continuity. The child welfare and juvenile court systems can ensure that the child has an opportunity to develop a sense of his or her own history.

A complete history of the child's maltreatment and trauma experience may include trauma reminders: places, people, experiences, changes to his or her body that occurred as a result of the trauma, or sensory stimuli that prompt memories of the original trauma. Trauma reminders that might create difficulties for the child include:

- Exposure to rooms similar to those in which the trauma occurred;
- Exposure to sounds or smells that remind the child of the traumatic event;
- Exposure to voices or words connected with the trauma for the child; and
- Exposure to the perpetrator of the trauma.

When the child encounters a trauma reminder, he or she may become flooded with memories of the original event and may experience emotions and thoughts as though the event was occurring again. Trauma triggers, or reminders, are unique to each child and may result in a change in the child's behavior, demeanor, or affect that appears inexplicable to observers. In these situations, the child again experiences feelings such as helplessness, powerlessness, and anxiety. It is important that substitute caretakers are aware of trauma reminders that may trigger changes in the child's behavior and that they develop a plan of action to address these behavioral changes.

### **Protecting the Child from System-Generated Trauma**

Consistency in gathering and sharing information about the child's trauma history is important, especially during the investigation of the traumatic events. Each community should develop a protocol that is a collaboration of law enforcement, child welfare workers, legal advocates, mental and medical health professionals, and the judiciary. The protocol's fundamental goal

should be minimizing the risk of additional trauma to child victims/witnesses. This goal is achieved through a cooperative, multidisciplinary effort to limit the number of interviewers and times the child is questioned, and by treating children with dignity and respect (San Diego Child Victim Witness Protocol, 2000).

The use of trauma-informed methods ensures that the maltreated child receives support and protection during the investigation of the events. The manner in which children are questioned during the investigation phase influences their ability to tell their stories. Interviews should be conducted in a child-friendly environment by a skilled interviewer who conveys warmth and support and uses words compatible with the child's developmental level (Memon, 1998). Multiple interviews conducted by different individuals can create additional stress for the child (Saywitz & Snyder, 1993).

In some circumstances, an extended forensic interview may provide an environment for a child in which he or she can better tell his or her own story. For example, a highly anxious child may need several opportunities to make a clear disclosure. In these situations, the same interviewer should meet with the child during each session. The goal is always to provide support to the child in making his or her disclosure. The National Child Advocacy Center in Huntsville, Alabama, has developed one extended interview model (Carnes, Nelson-Gardell, Wilson, & Orgassa, 2001).

The decision to remove children from the care of their parents or primary caretaker is always a difficult and complex one. The sole act of removing the child from the home can be traumatizing. Once that decision is made, a number of supportive, trauma-informed precautions can be taken to ensure that law enforcement, child welfare staff, attorneys, and others who might encounter the child do not cause additional emotional harm. It is important to recognize that simply removing a child from an abusive or neglectful situation is not sufficient to allow a complete recovery from the trauma. From the actual point of removal, especially when law enforcement is involved, children must be reassured they have done nothing wrong. The court is also in an excellent position to reinforce that the child is not to blame for the family situation. The child's needs, perceptions, and worries must be a priority. A comprehensive,

individualized plan to guide the child's recovery from the trauma should be put into operation as soon as possible. The following example illustrates the need for immediate attention to the child's recovery process.

### Case Study

Law enforcement and child welfare arrived at the home of 3-year-old Molly to remove her due to substantiated allegations of sexual abuse by her father and her mother's apparent failure to protect. In the process, both parents physically struggled with the police, resulting in them being handcuffed. The police took Molly's father into custody, but allowed her mother to remain in the home. With law enforcement assistance, the child welfare worker took Molly to the children's emergency shelter. The child welfare worker was not able to return to the shelter to see Molly for several days after her placement. This allowed Molly sufficient time to form a scenario in her young mind based upon her own interpretation of events. In her mind, Molly saw her family destroyed. As the police removed her and her father, her distraught mother stayed alone. It was also several weeks before Molly saw her mother. During this period, Molly thought that she would never again see any of her family members.

The intervention process, although necessary, failed to protect Molly emotionally and provide her with the context in which this had occurred. The delay in the child welfare worker visiting Molly allowed her interpretation of this event to solidify in her mind. The immediate availability of trauma-focused mental health services within the shelter or in the community could have made a significant difference in how the events affected Molly on a long-term basis. Instead, these events became her most painful memories and the presenting trauma of sexual abuse was no longer the most difficult one for her. Molly needed time in therapy to process the events surrounding the police and child welfare intervention at her home before she was ready to address the sexual abuse.

Molly's experience illustrates the importance of learning how a child enters the child welfare system, how the investigation process affects her, and how quickly, if at all, trauma-focused therapy services are provided. The child must receive accurate information on the status of his or her parents and siblings as promptly as possible. The non-offending parent and the

child should visit as soon as it is safe. When the parent supports and reassures the child, anxiety decreases and the chances of a full recovery increase. Parents should be told that the child's chances for a full recovery increase when she perceives that her parents and other individuals such as law enforcement, child welfare, and judicial personnel believe and support her. The juvenile court and child welfare workers are in an excellent position to prompt parents to convey this message to their child.

### **Mental Health Services**

It is essential that traumatized children who enter the child welfare system are appropriately screened and evaluated in order to understand their functioning and determine the need for therapy services. A consistent method for accomplishing this task should be developed and utilized with each child. With appropriate training, child welfare staff may complete a screening using an instrument such as the Trauma Profile Tool. The use of such an instrument will allow child welfare workers to determine the urgency in referring a child to appropriate mental health services. When the need for mental health services is demonstrated, children should be engaged in the therapy process as quickly as possible after their disclosure of a traumatic event. While some children do not demonstrate symptoms following an episode of maltreatment or trauma, the possibility that symptoms may develop later should be considered. The majority of children who have trauma histories will benefit from appropriate therapy services.

Once the child has engaged with a mental health provider, a more detailed evaluation of his or her functioning should be completed. Using standardized assessment tools at the entry point into treatment assists in the gathering of valuable information on the child's baseline level of functioning. With knowledge of evidence-based treatments and an understanding of the child's trauma history, the court can order appropriate evidence-based therapy for the child. Provision of these services will conserve the limited supply of financial resources for the treatment of children in the child welfare system.

The field of mental health care for traumatized children has had significant growth in the past five to ten years. A statement approved as policy by the American Psychological Association (APA) Council of Representatives during its August 2005 meeting

describes evidence-based practice as follows: "Evidence-based practice in psychology is the integration of the best available research with clinical expertise in the context of patient characteristics, culture, and preferences" (APA, 2005). Among the evidence-based practices that have shown promise include parent-child interaction therapy, trauma-focused cognitive behavioral therapy, and abuse-focused cognitive behavioral therapy (Chadwick Center for Children and Families, 2004). In addition, in order to offer the child the optimal level of care, the caretaker must be involved in the child's mental health services. In the absence of a caregiver who is able or willing to participate in the child's therapy, any person who will be a constant presence in the child's life can and should be involved.

When the court has ordered that child maltreatment victims receive mental health services, it should also require regular, clear, and specific documentation of progress in therapy. A comparison of the baseline and follow-up assessments should be included in every report to the court. The Chadwick Center for Children and Families has developed a Trauma Assessment Pathway (TAP). TAP describes a process for measuring progress in treatment using standardized assessment tools and assists the clinician in selecting the most efficacious treatment intervention based upon the child's outcome scores and individualized client profile. This tool is available online at [www.chadwickcenter.org](http://www.chadwickcenter.org).

A system should be in place to allow child welfare workers and judges to select providers in the community who have completed training programs in evidence-based practices, including the required level of supervision to implement these practices independently. In San Diego County, California, an administrative body called the Treatment and Evaluation Resources Management (TERM) manages all clinicians who perform therapy services for or evaluate children in the child welfare system. Only approved clinicians may treat children in the care of the child welfare system. In order to become a TERM provider, a clinician must complete a detailed application that requires documentation of training and experience in treating various categories of childhood trauma and child development. For example, a therapist may qualify to treat preschool children who were exposed to domestic violence and were sexually abused, but not qualify to treat physically abused preschoolers.

Alternatively, a therapist may qualify to treat sexually abused adolescents engaged in self-injurious behaviors, but not latency-age sexual abuse victims. Documentation of ongoing training in areas such as cultural competence and treating co-morbid, or co-existing, conditions is also required. Special care is also necessary in identifying providers who are able to evaluate and treat adult perpetrators of child neglect and abuse.

### **The Child in the Courtroom**

Generally, every effort is made to avoid having children testify in juvenile court matters. Judges, attorneys, social workers, and parents all play a role in whether or not children testify. However, there are times when children are eager to tell their story and perceive testifying as an opportunity to share their thoughts and wishes. When it is necessary for a child to testify, many efforts should be made to assuage fears and provide the tools necessary for the child to be a competent, confident, and empowered witness. Saywitz and Nathanson (1993) found that if the courtroom produces anxiety in the child, performance may be impaired when compared to performance in a more familiar, informal setting. To that end, the child can be supported with psycho-educational programs before even reaching the court and by a judge's sensitive handling of the child witness.

Psycho-educational programs that introduce children to the court before the day they testify offer neutral support to the child. For example, in San Diego, children can attend either a private session or a formal Kids and Teens in Court (KTIC) program, offered by the Chadwick Center at San Diego Children's Hospital. Funded by the California Office of Emergency Services, the program operates free of charge to all child victims and witnesses. A Master's Level social worker administers the KTIC program in conjunction with the Superior Court of San Diego and with support from the San Diego County Public Defender's Office (the entity that represents children in child welfare cases in San Diego County). The KTIC session occurs in an actual courtroom at the juvenile court. Preparing the child for court includes an orientation, a tour of a courtroom, and introduction to court staff.

The KTIC program builds upon the premise that children do better as witnesses when they are prepared for the experience and when their caretakers are able to

support them through the process. The program utilizes evidence-informed practices such as desensitization, behavioral rehearsal, and psycho-education to increase the child's ability to testify with as little anxiety as possible. Details of the child's case are not discussed in order to avoid the appearance that the child's testimony is contaminated.

Children learn that through their testimony they have a chance to tell the judge what they want to happen in their family. Children are reminded that the goals of the systems involved in their lives are to ensure they are happy, healthy, and safe. Often, children who have been removed from their homes feel as if their needs are not being taken into consideration. They also have conflicting emotions about why they have been removed and why they have to come to court. Their fears are compounded by having to talk about their family in such a formal setting. During a KTIC session, children learn that they may have the option to testify in the judge's chambers.

By rehearsing behavioral components of the program, children are better able to understand the formal court processes. They do not need to worry about where they should stand, when they should hold up their hand, or what they should say. This psycho-educational process enables children to focus on their job as a witness, which is to tell their story to the judge and to tell only the truth. An introduction of the "players" is helpful. By introducing the court staff, attorneys, and social workers, the children feel as though they are part of the process. By teaching and instructing children and teens that it is "O.K." to say, "I don't know" they again gain a sense of control. The same is true for questions children and teens do not understand. Many children and teens feel uncomfortable questioning an authority figure; encouraging them to say, "I don't understand your question," helps them to reframe the situation. In addition, the child learns about the court process, for example what to do when an attorney says, "Objection." This is an excellent opportunity for the children to learn not only about the judge's role but also about the law.

A sensitive judge can also make it easier and more comfortable for a child to testify. Even though this role may be atypical for a judge, who does not want to appear to be advocating for the child, creating a comfortable environment for the child is not only an appropriate judicial role, it is mandated in many state statutes. (See, for

example, California Penal Code section 288(d); California Evidence Code section 765). Judges play a significant role in whether or not court is empowering or traumatizing. Additionally, the judge may make the court experience developmentally appropriate in the following ways:

1. **Building rapport by asking preliminary questions at the onset of the hearing.** By asking the child some simple, preliminary questions, the judge can elicit a narrative from the child to get him or her comfortable speaking in public. A helpful, rapport-building question to ask the child is: "Tell me about things you like to do for fun." A follow-up question might be "Tell me more." This sequence accomplishes two goals: It puts testifying children at ease and teaches them they may be asked to clarify or give more details while being questioned.
2. **Giving the children specific and concrete instructions.** These instructions must be simple, given one at a time, and given with appropriate feedback in order to be effective. Although judges often explain to children that they may say they "don't know" the answer or that they "don't understand" a question, the instructions can be confusing even to adults. Each instruction should include an illustration in which the child practices giving an answer.<sup>1</sup>
3. **Explaining to the child that the most important rule is to tell the truth and that it is okay to change an answer or to correct a mistake.** Research indicates children are often reluctant to correct themselves or people in positions of authority if they make a mistake. They are concerned that they will be accused of lying or will get in trouble if they make a mistake (Saywitz, 2002). Judges and other adults who help orient the child to the court process should explain that sometimes we make mistakes; we all say the wrong thing at some time or another. Children and teens need to understand they can correct themselves or the attorneys on the stand. As a practice illustration, a judge can say to a 9-year-old girl, "You're 30 years old, right?" The obvious and easy answer is, "No, you're wrong, I'm 9." By making the rules about court concrete and simple, children again can feel a sense of mastery as it relates to testimony.
4. **Creating a child-friendly environment in the courtroom or chambers.** It is particularly helpful if arrangements can be made for the child to see the courtroom in advance. Many children comment on

how different the courtroom looks than they expected. Some judges also have a smaller chair in chambers for the child to sit in when testifying. Other items judges use in their chambers include family photos and pictures of interest to children.

5. **Introducing all the players.** Children and teens often have concerns about who will be in court and why each person is there. By introducing the players, the judge can create a warmer environment that is more conducive to disclosing difficult family issues.
6. **Assuring children and teens that the hearing is nothing like the court they may have seen on television or in the media.** Children and teens need to understand the attorneys will not yell at them or each other. The judge can assure children that he or she does not allow this type of conduct in the courtroom. This makes the children feel safer and more in control.
7. **Using a child-friendly competency exam and oath.** Asking a child to swear often elicits a response that he does not swear! Using words such as "promise" and "will" instead of "swear" or "oath" are examples of how the court considers the child's developmental and cognitive needs. Many courtroom clerks have separate admonitions printed for children and adults. Even the commonly used, "Do you promise to tell the truth?" can be confusing to a young child. The concept of promising something in the future can have a different meaning to young children than it does to an adult (Sas, 2002). Some experts suggest asking a young child, "Will you tell the truth?" and then, if necessary, "Do you promise?" (Lyon, 2005). Further, Talwar and colleagues found that questioning children about their understanding of lying and truth-telling does not have any bearing on the truthfulness of their subsequent testimony (Talwar, Lee, Bala & Lindsay, 2002). Asking children to promise to tell the truth, however, has some real value.

Preparation for court can offer a child an opportunity to increase his or her sense of control while in the courtroom and reduce the stress normally experienced when faced with the formidable task of testifying. Within a court education program, the child is able to experience the support of a number of caring adults who consistently believe and support him or her. These positive experiences can transfer into other areas of the child's life and integrate into the larger process of recovering from the trauma. The best possible outcome for a trau-

<sup>1</sup> The following excerpt was taken from a trial with a 5-year-old witness: "THE COURT: Okay, if you don't know the answer to the question just say you don't know...Just tell her you don't know. THE WITNESS: I don't know." (Lyon, 2005).

## Protecting and Supporting Children in Court

matized child is to emerge from the experience with the belief that he or she can overcome adverse events. Multidisciplinary teams are able to reduce system-induced stress and therefore better support the child and family on the road to recovery.

### Summary

Staffs working within the child welfare and juvenile court systems play a significant role in protecting children from additional trauma and promoting their recovery from the effects of maltreatment and trauma. There are also opportunities for judges to influence the wider system of care for children involved in these two systems. Judges can make positive contributions by:

- Developing an understanding of the effects of trauma on children and remaining current on the literature. An excellent website for accomplishing this is [www.NCTSN.org](http://www.NCTSN.org).
- Ordering that a thorough history of the child's maltreatment and traumatic experiences be obtained and communicated to the court and foster parents or relative caretakers.
- Reducing the number of times the child is required to tell his or her story by requiring regular communication among all parties.
- Ensuring that all parties responsible for the well-being of the child act in accordance with one

comprehensive plan. The plan should be developed based upon the child's history and include evidence-based methods for promoting his or her recovery from the trauma.

- Ordering mental health treatment for the child with providers who have been able to demonstrate their knowledge and experience in using treatment methods that are evidence based. A process for determining which providers in a community have such expertise or are willing to learn evidence-based practices would be a contribution to local resources.
- Requesting regular and detailed information on the child's progress in treatment. This should include a comparison of baseline assessment scores obtained at the time the child enters treatment with those obtained from regularly scheduled follow-up assessments. If community providers are not yet using standardized assessment tools in the treatment process, judges can introduce the expectation by asking how the provider measures progress in treatment.
- Supporting children as they testify in court by encouraging the creation of a court education program that acknowledges children's developmental needs and recognizes the impact on a traumatized child of testifying in court.
- Initiating the development of a community protocol that can reduce the risk of the child welfare and court systems creating additional trauma for child victims.

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# The State of the Debate About Children's Disclosure Patterns in Child Sexual Abuse Cases

BY ERNA OLAFSON AND JUDGE CINDY S. LEDERMAN

## ABSTRACT

### INTRODUCTION

Cases involving child sexual abuse (CSA) are among the most heartbreaking cases a judge hears, for both emotional and legal reasons. How does the court evaluate the testimony of the young child who says it never happened, the child who discloses months after the alleged event, the girl who recants after visitation with family members, or the boy with an IQ of 51 who cannot clearly articulate how the alleged abuse occurred?

Proving child sexual abuse in the absence of physical evidence or testimony of an eyewitness is difficult. Children recant, child development issues intervene, and cognitive limitations raise questions, while the testimony of the adult perpetrator does not waiver. Indeed, although errors in either direction can have devastating consequences, finding the truth in CSA cases seems too often impossible. Decision makers confront the twin specters of leaving inarticulate children unprotected from further traumatic sexual abuse on the one hand, and subjecting innocent caregivers to criminal prosecution

In current research studies about the disclosure patterns of sexually abused children, experts agree that most victims delay disclosure for years, often until adulthood. Researchers disagree about disclosure rates and recantation rates among children during formal interviews. Studies of children who had not previously disclosed but are known through corroborative evidence to have been sexually abused show lower rates of disclosure than do studies of children who had disclosed prior to the formal interview. Gradual disclosures among children are common, and more than a single interview may be necessary in some cases. Prior disclosure, level of support by non-offending parents, developmental level, and relationship to perpetrator affect children's rates of disclosure and their disclosure patterns. More research is necessary to clarify children's post-disclosure recantation rates and predictors.

or the loss of parental rights on the other.

Science can be a tremendous asset to judges in understanding and interpreting the behavior of victims of child sexual abuse, since their behavior can often seem counterintuitive. It is essential that judges consider children's disclosure patterns in light of current research in order to have the greatest chance to evaluate the facts

and find the truth. Children's disclosure patterns are crucial because physical findings are diagnostic of child sexual abuse in 10% or fewer cases (Frasier & Makaroff, this issue). Sexual abuse, especially when there is no penetration, rarely results in physical trauma. Even when there has been sexual penetration, the capacity for rapid healing of the genital anatomy inhibits the detection of evidence (The National Research Council, 1993, p. 72). Therefore, children's statements are central both to the prosecution of the crime of child sexual abuse and the protection of children from further abuse.

This review is intended to update criminal, juvenile, and domestic relations court judges who preside

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over CSA cases about current areas of agreement and disagreement among scientific researchers about the disclosure patterns of CSA victims. A major volume on abuse disclosure patterns is scheduled for publication in 2006 (Pipe, Lamb, Orbach, & Cederborg, in press). It contains chapters by researchers from differing perspectives that we have drawn upon for this article (London, Bruck, Ceci, & Shuman, in press; Lyon, in press). Unfortunately for those charged with making decisions about children's welfare, no single school of researchers has the last word on these controversial issues.

### Brief History

Many scholarly papers about children's disclosure patterns either begin with a discussion of Roland Summit's Child Sexual Abuse Accommodation Syndrome (CSAAS) or structure their arguments around his model of children's behavior in these cases (London, Bruck, Ceci, & Shuman, 2005; Lyon, 2002; Lyon, in press; Summit, 1983). Summit argued that children often deny being sexually abused, even when they are directly asked, and that disclosing children often subsequently recant their allegations. He based the accommodation syndrome primarily on cases of intrafamilial child sexual abuse (incest) rather than extrafamilial child sexual abuse.

Although Summit's "syndrome" has been litigated with a variety of outcomes in many courts, it may have become so controversial that it obscures rather than clarifies the issues at hand. Judges should bear in mind that for almost a century before Summit published his influential paper, there was statistical evidence that children often delay disclosure or remain completely silent about sexual victimization. Indeed, this prior literature was so extensive that a major psychological journal rejected Summit's accommodation syndrome paper before it found publication elsewhere because, the reviewers argued, it contributed nothing new (Lyon, in press; Olafson, 2002). There have also been a number of studies documenting children's disclosure patterns in otherwise corroborated child sexual abuse cases since the 1983 publication of Summit's paper (Lyon, in press). Examining children's disclosure patterns one category at a time, without organizing them around Summit's now-controversial accommodation syndrome, may clarify and simplify the issues.

### The Issues

What are the disclosure and non-disclosure patterns among children known to have been sexually abused? There are several issues:

- Do most child victims delay reporting sexual abuse, sometimes until adulthood?
- If directly asked, do most child victims disclose sexual abuse?
- If directly asked, do some CSA victims initially fail to disclose or deny being abused, so that more than one formal interview becomes necessary?
- How common is incremental abuse disclosure, from partial and fragmentary accounts to full disclosure over time?
- Once children have disclosed sexual abuse, do a high percentage of known victims subsequently recant or retract their disclosures?
- Are there factors such as gender, developmental level, culture, degree of abuse severity, parental support, and relationship to perpetrator that influence disclosure patterns among CSA victims?

### Sources of Information

The two most reliable sources of information about disclosure patterns in CSA victims are:

- Retrospective surveys of adults who report having been sexually abused during childhood; and
- Research about children's statements during evaluation and treatment in cases with corroborative evidence that is independent of children's statements, such as videotapes of the actual abuse, physical findings, sexually transmitted diseases, and offender confession.

Both sources are imperfect. Cases that have independent corroboration may be unrepresentative of sexual abuse cases in general. Retrospective surveys depend on human memory over time, so that under-reporting, over-reporting, and inaccurate reporting may occur.

Nevertheless, cases with independent corroboration and retrospective surveys are superior to the other sources sometimes used in literature reviews. For example, studies that claim substantiation or conviction rates as "independent" corroboration may significantly inflate the percentages of actually abused children who disclose their victimization during formal questioning. This is because substantiation, prosecution, and

conviction depend so heavily at all decision stages on children's statements. To argue that substantiation rates that depend upon children's disclosures proves that most children make disclosures when interviewed is to argue in a circle (Lyon, in press).

The definitions of key terms also affect research outcomes, but researchers do not always specify their operational definitions. "Child sexual abuse" can include a wide variety of behaviors, from non-contact exposure to genital fondling to violent genital, oral, and anal rape. In this article, we focus primarily on contact child sexual abuse. "Disclosure" also has a variety of meanings. We define disclosure to mean a clear verbal statement that at least one abusive act took place, although a disclosure need not be a complete report of everything that happened. Our definition does not include suggestive doll play and other fragmentary "partial disclosures" that, when included in research studies, artificially inflate children's "disclosure" rates (e.g. Dubowitz, Black, & Harrington, 1992).

"Non-disclosure" can also vary in meaning depending on whether it refers to a child's non-disclosure during a single or initial interview or a child's non-disclosure maintained over six or more interviews. Children questioned only once show higher "non-disclosure" rates than do children questioned several times, so that studies such as that by Sorenson & Snow (1991) that show very high initial non-disclosure rates have an eventual disclosure rate of over 90%.

### **Child Sexual Abuse Disclosures Delayed Until Adulthood**

There appears to be a consensus among researchers that most child sexual abuse victims delay disclosing, often until adulthood. A number of well-designed retrospective surveys now show that the great majority of victims delay disclosing contact child sexual abuse during childhood (Finkelhor, Hotaling, Lewis, & Smith, 1990; Smith et al., 2000). These surveys also indicate that even when adults recall having told someone about the abuse, the majority of these cases were not then reported to the authorities. In one survey, 28% of respondents stated that they had disclosed to no one before telling the telephone interviewer about the child sexual abuse (Smith et al., 2000); another survey found that 42% of men and 33% of women first told anyone

about having been sexually abused as children when asked during the retrospective telephone interview (Finkelhor et al., 1990).

London and colleagues (2005) summarize the retrospective literature by noting that the results of 10 retrospective surveys indicate that only one-third of adults who suffered child sexual abuse revealed the abuse to anyone during childhood. The study concludes that "approximately 60%-70% of adults do not recall ever disclosing their abuse as children, and only a small minority of participants (10%-18%) recalled that their cases were reported to the authorities" (London et al., 2005, p. 203). Although London and colleagues note the research limitations inherent in adult retrospective literature, they also write, "Given the differences in methodology, definitions of abuse, and sample characteristics, the general consistency of these findings across these studies is noteworthy" (London et al., 2005, p. 201; but see Poole & Dickinson, 2005).

Judges and other fact finders can only adjudicate those cases that come to their attention, and a child's prior disclosure to a caregiver or friend constitutes the most common means by which child sexual abuse comes to the attention of the authorities and thus to the courts (Lyon, in press). Therefore, because it appears that most people delay disclosing until adulthood, children who decide to tell someone about being sexually abused and whose cases therefore come to court are not representative of sexually abused children in general. In other words, child protection authorities and the judiciary are likely to see only a minority of those children who are actually being sexually abused. There are, of course, some sexual abuse cases that are reported for reasons other than a child's prior disclosure, such as children's sexualized behaviors, physical findings, and other external evidence. This review article focuses on the disclosure patterns and behaviors among both groups of sexually abused children, those who had previously disclosed and a smaller number of those who came into the system in some other way.

### **Child Sexual Abuse Disclosures Delayed within Childhood**

There appears to be agreement among researchers from diverse perspectives that "when children do disclose, it often takes them a long time to do so" (London

et al., 2005, p. 204). In a study of 399 children aged 8 to 15, Elliott and Briere (1994) find that of 248 subjects assessed as having been sexually abused, 74.9% did not disclose their abuse to anyone within the year that it first occurred, and 17.8% had waited more than five years to tell anyone. The courts are likely to see many such cases in which children delayed reporting for months or even years before telling someone about the abuse. It is also not unusual for children to disclose the abuse long after adjudication when they are in a safe environment and the litigation is finished. Delays in telling anyone about the abuse for several months, a year, or even longer occur in a significant percentage of child sexual abuse cases (Henry, 1997; Sas & Cunningham, 1995).

**In weighing the evidence in child sexual abuse cases, judges and other fact finders should be aware that, in a high percentage of actual CSA cases, there will be delays of months or even years between the onset of the abuse and a child first disclosing to another person.**

### Children's Gradual Disclosures during Formal Interviews

Many prosecutors are familiar with the problem of incremental disclosure, in which a child may disclose only aspects of an abusive event, such as genital fondling, during the initial interview. Shortly before trial is scheduled to begin, the child, perhaps during court preparation with the prosecutor, describes new details, such as penetrating oral sex, that necessitate postponements, the filing of new criminal charges, and concerns about the child's credibility and competence. In one such case, a young incest victim, when asked why she had not mentioned crucial additional information during her initial advocacy center interviews responded, "I just didn't think of it." This pattern of partial disclosure can be explained by Summit's classic child sexual abuse accommodation syndrome, but it may also simply reflect the usual patterns of recall in the very young. In an experimental study, Dr. Robyn Fivush asked non-abused children aged 3-6 about a known event on two subsequent occasions (Fivush, 1994). On the two recall occasions, children reported different but still accurate information about the events, with an overlap

of details between the two retellings of only 20%. This research about children's normal patterns of recollection and reporting could in itself justify recommending that children be given more than a single interview to tell the authorities about the events in their lives.

In a summary of 21 studies from 1965 to 1993 of children diagnosed with gonorrhea, Lyon finds gradual disclosure by children to be very common (Lyon, in press). In 118 CSA cases studied by Elliott and Briere (1994), there was external evidence for the abuse, including, for example, medical evidence diagnostic of child sexual abuse, perpetrator confession, a witness to the abuse, or pornographic pictures of the child. In a number of these 118 cases, victims disclosed partially in the first interview by mentioning fondling, but when investigators confronted them with the external evidence for more severe abuse (penetration), the children then made more complete disclosures.

Thus, when questioned during formal interviews, children may only partially disclose during the initial interview. Because evidentiary studies show that traumatic medical evidence (such as a ruptured hymen) is lacking in a significant number of cases in which perpetrators have confessed to penile penetration, judges should not prematurely regard children's statements as complete after a single interview (Muram, Speck, & Gold, 1991). As Elliott and Briere (1994) write, "Forensic evaluations that consist of a single interview may result in incomplete disclosure and less accurate determinations, especially in cases where medical or other external data are lacking or inconclusive" (p. 274).

This recommendation does not contradict the long-held principle in the child protection fields to avoid subjecting children to repeated interviews by multiple investigators from social services, law enforcement, and the court system. The National Children's Advocacy Center has developed and tested guidelines for extended forensic evaluations with reticent children. If several interviews become necessary, it is recommended that a single interviewer conduct them and that the questioning be sensitively structured to build rapport over time and avoid repetitive questioning and suggestiveness (Carnes, Wilson, & Nelson-Gardell, 1999; Carnes, Nelson-Gardell, Wilson, & Orgassa, 2001).

Because many sexually abused children in externally corroborated cases are known to disclose only gradually, more than a single interview may become necessary to serve children's safety and justice. See the guidelines by the National Children's Advocacy Center (Carnes et al., 1999; 2001).

### Non-Disclosure or Denial by Children When Interviewed about Child Sexual Abuse

The most troubling cases for the courts are those in which there are red flags indicating a strong possibility of child sexual abuse: The case is reported, the child interviewed, and the child discloses no sexual abuse. There are two classes of children to consider here:

- Children who previously disclosed partially or fully to another person and thus precipitated entry into the system; and
- Children who came into the system through other means, such as diagnosis of a sexually transmitted disease during routine medical care, extreme sexualized behaviors, or the discovery of videotapes documenting the abuse.

It is about children's disclosure patterns once they are in the system that the experts disagree, and these cases are the most troubling to those responsible for protecting children from abuse and protecting adults from false allegations.

London et al. (2005) state that "the data clearly demonstrate that most children who are interviewed about sexual abuse do disclose and do not later recant..." (p. 217).

Lyon (in press) responds with a critique that reveals problems with two kinds of case selection bias in many of the samples upon which London and colleagues based the above conclusion. Lyon argues that:

- To avoid **suspicion bias**, one must examine cases that did not come to the attention of the authorities because a child disclosed to someone prior to the formal interview; and
- To avoid **substantiation bias**, one must examine cases in which substantiation was completely independent of the child's statements.

To understand how both forms of selection bias artificially inflate the actual rates of children's sexual abuse disclosures, consider the following extreme case.

If we *suspect* sexual abuse only when a child has previously disclosed, then **100%** of children in a sample of children suspected of being sexually abused will have disclosed at some point. If we *substantiate* child sexual abuse only if a child discloses, then **100%** of children in a sample of substantiated cases will have disclosed. The reality is only somewhat less extreme. The great majority of *suspected* CSA cases come to our attention only because a child has previously disclosed. Child sexual abuse *substantiation* also depends most heavily on children's disclosures, because external evidence of child sexual abuse (such as physical findings or offender confession) is rare and generally detected only after sexual abuse has been suspected.

London et al. (2005) seem to agree with Lyon about suspicion bias by writing, "Prior disclosure of abuse predicts disclosure during formal assessment" (p. 209), but they do not then systematically deal with the problem of suspicion bias. London and colleagues also acknowledge but do not fully address the substantiation bias problem by writing, "In many of the cited studies, classification of abuse was often based in part on children's disclosures; consequently, the conclusion that abused children do disclose abuse during formal interviews may be circular" (p. 217). They then base their conclusion that "the evidence fails to support the notion that denials, tentative disclosures, and recantations characterize the disclosure patterns of children with validated histories of sexual abuse" (p. 194) on their review of research studies that are in many cases flawed by both suspicion and substantiation bias. What do studies that avoid both biases tell us about this area of contention?

### Studies of Disclosure Patterns in Cases without Selection Bias

Nine boys and one girl were interviewed by police after Swedish law enforcement discovered videotapes of 102 incidents of child sexual abuse, ranging from exposure of the child's genitals to oral/anal/vaginal intercourse (Sjoberg & Lindblad, 2002). The perpetrator was either related to the children or knew them through his work at a day care center. Abuse severity was coded both from the videotapes and from children's statements. No child had previously disclosed abuse nor had it been suspected. Five children reported no abuse during police interviews, for a disclosure rate of 50%. The child who had suffered

the greatest number (60 incidents) and most severe sexual assaults according to the videotaped evidence did not disclose during the police interview. Two of the five children who did disclose did so only in response to leading questions. No child reported any sexual behavior not documented on the videotape.

Cases with children not suspected to be sexual abuse victims who are diagnosed with sexually transmitted diseases, who are too old to have acquired the diseases congenitally and too young to have acquired them through consensual sex with peers, also avoid both suspicion and substantiation bias. Confining this review to STD diagnosis deals with the problem raised by London et al. (2005) that "medical evidence" is not always a "reliable benchmark" because, for example, genital redness may be caused by many things besides sexual abuse.

Lawson and Chaffin (1992) found that among 28 children in which STDs were medically diagnosed without prior suspicion of abuse, only 12 children (43%) made an allegation of sexual abuse during the initial formal interview, and 16 children did not. Almost half of these children had shown no physical or behavioral symptoms of sexual abuse, so that there were no "red flags" that would have otherwise brought these children into the system as possible CSA victims. Maternal attitude influenced disclosure patterns greatly. Among those children whose parents were supportive, 63% disclosed abuse during these initial interviews, whereas when caregivers expressed skepticism, only 17% disclosed.

Of the 16 false negatives in the original Lawson and Chaffin study, five were subsequently located and consented to be interviewed. Four of these five had a supportive parent and one a non-supportive parent. Researchers presented the study to parents and children as an evaluation of responses to prior emergency room visits, and they never mentioned child abuse. Nevertheless, four of the five parents spontaneously told the researchers that their children had disclosed sexual abuse some time after the initial hospital interview, a finding that supports the idea that CSA disclosure is often an incremental process that may require more than a single interview (Chaffin, Lawson, Selby, & Wherry, 1997). Upon psychological testing, the four non-disclosing children whose parents had been supportive at the time of the initial interview tested three times higher on dissociative symptoms than did the dis-

closing children and nine times higher on dissociative symptoms than non-abused control children. Because of the nature of this study and the very small numbers of children involved, these results are far from conclusive, but they do suggest a possible link between dissociative symptoms and non-disclosure among CSA victims.

London et al. explain the Lawson and Chaffin results by describing this sample as "unusual" and as representing "the small hard core of children who do not disclose abuse when directly asked" (2005, p. 215). Lyon argues in response that the Lawson and Chaffin sample avoids the problems of suspicion and substantiation bias that characterize many other samples. Lyon then raises a concern about the many cases that are closed as unsubstantiated after a single interview during which a possibly sexually abused child without medical evidence fails to disclose when formally questioned.

A number of other samples document similarly low rates of disclosure in STD cases. Lyon examined 21 studies published between 1965 and 1993 of children diagnosed with gonorrhea. In nine of these papers, the authors referred to a "history" of sexual contact or sexual abuse for some of the children with gonorrhea, without clarifying whether this history came from children's disclosures or from other sources (Lyon, in press). In most of the remaining studies, the authors used words such as "admitted" or "denied" sexual contact or referred even more directly to children's statements. Even when all the cases of "history" were counted as actual child disclosures, Lyon finds that the average rate of "disclosure" among the 579 children in these studies was 43%, or 250 children. Given the broad definition of "disclosure" that he applies here, Lyon argues that this may actually be an overestimate of disclosure rates. Most of these studies indicated that the medical professionals questioned the children, but the precise nature of these questions is not known. When Lyon omits studies with children younger than three years of age to control for developmental limitations on narrative skill, he finds that 185 of 437 children, or 42%, disclosed.

To summarize this sample of disclosure studies that avoid both suspicion and substantiation bias, Sjoberg and Lindblad find a disclosure rate of 50%, Lawson and Chaffin find a disclosure rate of 43%, and in a review of 21 studies of children diagnosed with gonorrhea, Lyon finds a disclosure rate of 43%. London et al. (2005) assert



that when CSA victims are interviewed, a “majority” of them disclose sexual abuse. These 23 studies contradict that assertion by showing that only from 42% to 50% of children known through external evidence to have been sexually abused actually disclosed during their formal interviews.

We agree with London and colleagues that “If the field is to be guided by scientifically validated concepts then this must be predicated on the literature that comes closest to the standards of science” (2005, p. 220). Research studies that avoid suspicion bias and substantiation bias come closer to this scientific standard than do research studies that suffer from one or both of these biases, and these studies show far lower rates of children’s disclosure of child sexual abuse than London et al. (2005) assert.

**When children who have not previously disclosed are interviewed, and these children are known to have been sexually abused because of external corroborating evidence, their rates of disclosure range from 42% to 50%.**

#### **Studies of Child Sexual Abuse Cases that Avoid Only Substantiation Bias**

Studies of previously disclosing children will generally show higher rates of disclosure than do studies in which children had not previously disclosed, because prior disclosure predicts children’s disclosure during formal interviews. The majority of cases that judges are likely to see will involve previously disclosing children, because child sexual abuse is most often suspected when a child says something to a caregiver or friend that brings the case into the system. However, many research studies do not fully document whether or not a child disclosed prior to entering the system. Others state how many children disclosed to another person prior to the formal interview. Both categories are reviewed in this section.

Hershkowitz, Horowitz, & Lamb (2005) examined all interviews with alleged victims of sexual abuse, aged 3 to 14, in Israel from 1998 to 2002 (10,988 interviews). Most of the alleged victims were aged 7 to 14. During one interview, 71.1% of these children made allegations of child sexual abuse. Boys were less likely than girls to allege sexual abuse. Children aged 3-6 were less likely to make allegations than children aged 7-10, and children aged 11-14 had the highest rates of allegation.

Children were much less likely to make allegations when the suspect was a parent or parent-figure. This very large study confirms patterns observed in smaller U.S. samples. However, because of limitations in the data set, the authors did not state which children had made disclosures prior to the formal interviews, although it is known that prior disclosure is the primary means by which cases come into the system (Lyon, in press). The authors were also unable to determine from the data set which children had been interviewed more than one time. Finally, it was not possible to analyze separately those cases that had independent evidence corroborating child sexual abuse, so that the validity and non-validity of the children’s allegations could not be determined.

Elliott and Briere (1994) find that 39 of 118 (33%) children aged 8 to 15 for whom there was external evidence of child sexual abuse made no disclosure about having been sexually abused during formal interviews, and some of the remaining 67% of children with external evidence who did disclose required more than one interview to do so. Twenty of these children had reportedly disclosed to another person before the interview but did not do so during the interview, and 19 disclosed to no one either before or during the formal interview. A higher percentage of the non-disclosing children had mothers who were not supportive. There was a higher percentage of African-American children among the non-disclosing group. Victims were aged eight through adolescence, and other research has shown that school-aged children and adolescents are more likely to disclose sexual abuse when questioned than are younger children (DiPietro, Runyan, & Frederickson, 1997; Hershkowitz et al., 2005; Keary & Fitzpatrick, 1994; London et al., 2005; Lyon, in press; Sas & Cunningham, 1995). London et al. mistakenly calculate a disclosure rate of 84% in the Elliott and Briere study, a percentage that is inflated because of substantiation bias. London and colleagues (in press) calculated the 39 non-disclosers against the 248 children classified as “abused,” although the 248 substantiation figure includes over 100 children classified by the researchers as abused because they made “consistent, detailed, contextually embedded, developmentally age-appropriate accounts of at least one abusive incident” (Elliott & Briere, 1994, p. 264). When substantiation bias is eliminated and the 39

children who did not disclose during formal interviews are measured against the 118 cases with corroborative evidence independent of children's disclosures, the disclosure rate during formal interviews is 67% and the non-disclosure rate of known victims is 33%.

In their forthcoming chapter, London et al. also cite inflated 75% disclosure statistics from a study by Dubowitz et al. (1992). There were 28 children in that study who had medical examination findings indicative of child sexual abuse, and of these, 13 fully disclosed, 7 did not disclose, and 8 "partially disclosed." London et al. (in press) must be including the 8 partial disclosers in this high percentage, although these partial "disclosures" are described by Dubowitz et al. (1992) as "suggestive doll play or an inconclusive account of alleged abuse" (p. 690). When only real disclosures are included, the disclosure rate in the Dubowitz study is 46%.

Finally, because of methodological shortcomings in two older studies, Sorenson and Snow (1991) and Bradley and Wood (1996), they are reviewed only briefly here. Sorenson and Snow report a 72% initial non-disclosure rate by children, and Bradley and Wood report a 7% total non-disclosure rate apparently over the course of several interviews. The end results for both studies do not differ greatly. Bradley and Wood write that 95% of the children in cases that had external evidence of child sexual abuse similar to that used by Sorenson and Snow "made a partial or full disclosure of abuse during at least one interview with DPRS or police" (p. 885). In their evaluation and treatment sample, Sorenson and Snow write that 96% of the children for which there was external evidence eventually reached "active" disclosure, often after weeks or months of treatment.

**Prior disclosure predicts disclosure during formal interviews. However, in externally corroborated cases in which children have previously disclosed, a substantial percentage of children do not disclose during the first formal interview. Many of these children do disclose if given the opportunity in subsequent interviews.**

### Recantations

A 10-year-old girl who has told investigators that she was repeatedly sodomized by her soccer coach comes to the witness stand during criminal proceed-

ings, freezes, and mumbles to the jury that she "cannot remember" what happened; as with many cases of anal penetration, there is no medical evidence. An adolescent boy who has told his school counselor that his stepmother "messes with my dick" explains to the child protection investigator the next day that he was "just kidding." A preschool girl who has reportedly told her divorced mother that her daddy "tickles my coochie and it hurts," climbs under a table during the advocacy center interview and denies ever visiting her father. Are these children withdrawing their allegations because they were never abused, or are they recanting true statements about abusive events?

These are among the most challenging cases to investigate and to litigate. There are far fewer studies on recantation than on delay, non-disclosure, and disclosure, and there is not yet definitive research about recantation rates in externally validated cases. Recantation rates in various studies range from 4% (Bradley & Wood, 1996) to 22% (Sorenson & Snow, 1991). Most studies of recantation rates contain serious methodological flaws. Therefore, we cannot agree with the statement by London et al. (2005) that "only a small percentage of children in these studies recant" (p. 217). It is more accurate to state that we simply do not yet know how often and why children recant their statements about actually having been sexually abused.

There is research currently under way. Malloy, Lyon, Quas, and Forman (2005) recently presented results from a random sample of 217 substantiated CSA cases from the Los Angeles Dependency Court in 1999-2000 to discern disclosure patterns across all interviews. Children were aged 2 to 17, and 90% were female. Most of the children had from 3 to 9 interviews. The majority (78%) had disclosed to someone prior to the police or social services interview, so that the low initial non-disclosure rate of 9% can be explained by this sample's suspicion bias. Twenty-three percent of the children fully recanted their allegations at some point, and an additional 11% minimized the severity of the abuse they had initially reported by partially recanting, for a total of 34% full or partial recanters. Lack of maternal support and abuse by a male caretaker were predictors for full recantation. In cases that had medical evidence corroborating the sexual abuse, 25% of the children either fully or partially recanted the allegation, and 24.5% of

children whose perpetrator confessed recanted at some point during the evaluation. The authors conclude that recantation is not rare in externally corroborated cases and in substantiated cases, when all interviews in each case are examined.

Recantations should not be interpreted to mean that an allegation is necessarily false. Unfortunately, criminal courts do not always agree. For example, in Florida, a prior inconsistent statement from a recanting alleged victim of child sexual abuse is not sufficient in and of itself to sustain conviction, even if repeated on multiple occasions (*State v. Green* 667 So.2d 756 Fla., 1995. West's F.S.A § 90.803(23)).

**Researchers have not established whether recantations are frequent or infrequent, but they do occur in externally corroborated CSA cases, especially when abuse was by a male caregiver and/or maternal support was absent.**

### Bizarre Disclosures

Many children's cases never reach the courts because they contain bizarre and impossible details. These can include accounts of, for example, having been abused aboard rocket ships, having been abused by the Wizard of Oz, having been stabbed all over the body (without medical evidence), having murdered and dissected a baby, and other grotesque and extreme statements. In a random sample of 104 child sexual abuse and physical abuse "gold standard" cases with two forms of external evidence selected from a child protection facility, the blind scoring of transcribed disclosure statements shows that 15.38% of the most severe cases with victims aged 4-9 contained such implausible details (Dalenberg, 1996; Dalenberg, Hyland, & Cuevas, 2002). These fantastic statements were from cases in which the researchers could be certain that physical and/or sexual abuse had actually taken place. The rate of bizarre statements in the mild, externally verified cases from this sample was less than 4%. Because both true and false allegations can contain implausible details, their presence does not help investigators sort truth from fiction. What this study does indicate is that implausible details in an otherwise solid disclosure do not in themselves prove that an allegation is false. Indeed, these fantastic elements may indicate that the child experienced espe-

cially severe physical and/or sexual abuse.

### Variables that Affect Disclosure Patterns

We agree with London and colleagues (in press) that future research with a multivariate model is necessary to find causal explanations for children's disclosure patterns, but there are some trends that seem to be emerging.

- *Maternal or parental support:* Children who lack caregiver support are far less likely to disclose than are children who have a supportive caregiver, when "support" is defined as a willingness to believe that the child sexual abuse could have happened (Elliott & Briere, 1994; Lawson & Chaffin, 1992). Elliott & Carnes (2001) find that a majority of mothers either believe or support children in CSA cases. Those cases that reach the courts may differ in crucial ways. Thus, in dependency court, familial support is often absent, hence the intervention of the state in the parent-child relationship to protect the child. The victim child, and often her siblings, are removed from their home, and sometimes there is an arrest of a family member who may be the breadwinner. In too many cases, the child is blamed, feels responsible for breaking up the family, and eventually recants (Malloy et al., 2005).
- *Relationship to perpetrator:* In some cases, the child is dissuaded from disclosing the abuse by family members who do not believe the child and wish to prevent shame and embarrassment to the family. Most studies demonstrate lower rates of disclosure or longer delays in doing so when abuse is by a family member rather than by a non-family member (Goodman-Brown, Edelstein, Goodman, Jones, & Gordon, 2003; Hershkowitz et al., 2005; Sjöberg & Lindblad, 2002; Smith et al., 2000; but see also Lamb & Edgar-Smith, 1994; London et al., 2005).
- *Age:* Retrospective surveys indicate that victims first abused during adolescence are more likely to disclose than are younger children, and they are more likely to disclose first to another adolescent than to a caregiver. Retrospective surveys also indicate that school-aged children are more likely first to reveal child sexual abuse to a parent than to another child (London et al., 2005, p. 201).
- *Gender:* In both retrospective surveys and child samples, there are suggestions that boys may be more reluctant to disclose than girls, although other abuse-specific variables may influence gender differences (Ghetti & Goodman, 2001; Goodman-Brown et al., 2003; Hershkowitz et al., 2005; Kendall-

Tackett, Williams, & Finkelhor, 1993; Levesque, 1994; London et al., 2005; Sas & Cunningham, 1995; Sauzier, 1989; Widom & Morris, 1997).

- *Culture*: Although more research needs to be done in the area of culture and disclosure rates, there are indications among child samples that children from minority groups face culture-specific barriers to disclosure that could contribute to delays or denials (Dunkerley & Dalenberg, 1999; Elliott & Briere, 1994; London et al., 2005, p. 205).
- *Severity and duration of abuse*: Research studies show inconsistent results. Future multivariate analyses accounting for severity and duration of abuse, age, gender, culture, and relationship to perpetrator may clarify this issue.
- *Batterers*: The courts should be especially alert to the potential for child sexual abuse by batterers, because research studies indicate that battering father-figures are from four to nine times more likely to perpetrate incest (primarily on girls) than are non-batterers (Bancroft & Silverman, 2002). Because of the atmosphere of terror that can permeate violent homes, both adult and child victims are often justifiably reluctant to speak up when formally questioned unless they can be convinced that they will not be in danger for doing so (Jaffe & Geffner, 1998).
- *Dissociation and post-traumatic stress*: Children subjected to prolonged, severe abuse may face multiple obstacles to adequate disclosure. Unwillingness to face the discomfort of post-traumatic flashbacks may cause traumatized children to numb their feelings and cognitions and shut down during interviews. Dissociative symptoms may interfere (Chaffin et al., 1997; Putnam, 1997). Cognitive disabilities caused by damage to the central nervous system and brain are associated in numerous studies with histories of severe child maltreatment in early childhood, and these deficits may interfere with children's ability to recall and describe their life experiences (Elliott & Briere, 1994; Putnam, this issue).
- *Modesty*: Modesty or embarrassment should also be considered as motives for silence. One laboratory study indicates that girls aged 5-7 are reluctant to disclose even non-abusive genital touching during interviews. Saywitz, Goodman, Nicholas, and Moan (1991) found a 64% false negative disclosure rate in a subsequent interview among girls who had been touched genitally and anally during

a pediatric examination. It was only when the girls were directly asked with a yes-or-no question if the doctor had touched them on the genital and anal areas that these girls disclosed. This suggestive question produced a false positive rate of 8% (three girls) among those in the control group who had not been genitally and anally touched, and one of these girls provided contextual details. Most experts in the field warn against interview questions that name both act and perpetrator, and many courts define such questions as leading. Nevertheless, in this study, there were eight times as many false denials when this suggestive question was not asked than there were false allegations when it was asked.

- *Other reasons for non-disclosure*: When non-disclosing sexually abused children are questioned, they cite fear as their primary motivation not to tell. Older children who are familiar with dependency procedures know that they and their siblings may be removed from their home if they tell. Children may fear being stigmatized as "sluts" or "faggots" by their schoolmates if word gets out (and it too often does) that they are sexual abuse victims. Children may fear consequences to themselves, to the perpetrator, or to other family members (Goodman-Brown et al., 2003). Children often otherwise love and trust sexual abuse perpetrators, and in some cases, they may not be fully aware that what is happening to them is abusive, criminal, and wrong.

### Conclusions

The most difficult form of abuse to prove in court is child sexual abuse, even in dependency cases where the burden of proof is preponderance of the evidence or clear and convincing evidence rather than proof beyond a reasonable doubt. Few convictions carry the same degree of stigma and legal ramifications for the convicted and the potential for serious emotional and psychological harm to the victim.

It is important to understand that the rules are different in sexual abuse cases, and every judge must understand the science. It is common in sexual abuse cases for the victim not to disclose in a timely manner. It is not unusual for the victim to disclose little by little over a period of time. It can happen that the child victim will recant. In any other prosecution for any other crime, these actions would be considered indicia of unreliability

## SUMMARY OF RESEARCH FINDINGS

1. Experts agree that a majority of child sexual abuse victims do not disclose their abuse during childhood.
2. Experts agree that when children do disclose sexual abuse during childhood, it is often after long delays.
3. Prior disclosure predicts disclosure during formal interviews. Children who have told someone about the abuse prior to the formal interview are more likely to disclose during that interview than children who have not. Children who have not previously disclosed and who have come to the attention of the authorities because of medical evidence, videotapes, and other external evidence, are less likely to disclose during medical or investigative interviews than are previously disclosing children.
4. Gradual or incremental disclosure of child sexual abuse occurs in many cases, so that more than one interview may become necessary.
5. Experts disagree about whether children disclose sexual abuse when they are interviewed. However, when both suspicion bias and substantiation bias are factored out of studies, studies with external corroborating evidence of child sexual abuse show that 42% to 50% of children do not disclose sexual abuse when asked during formal interviews.
6. School-age children who do disclose are most likely to first tell a caregiver about what has happened to them.
7. Children first abused as adolescents are more likely to disclose than are younger children, and they are more likely to confide first in another adolescent than to a caregiver.
8. When children are asked why they did not tell about the sexual abuse, the most common answer is fear.
9. Further research is needed about recantation rates, which range in various studies from 4% to 22%.
10. Lack of maternal or parental support is a strong predictor of children's denial of abuse during formal questioning. Abuse by a family member may inhibit disclosure. Dissociative and post-traumatic symptoms may contribute to non-disclosure. Modesty, embarrassment, and stigmatization may contribute to non-disclosure. Gender, race, and ethnicity affect children's disclosure patterns.
11. Many unanswered questions about children's disclosure patterns remain, and further multivariate research is warranted.

or lack of truthfulness and would be legal and factual impediments to conviction. Indeed, a denial of abuse by the alleged victim would prevent prosecution.

In dependency cases, the court is bound to protect the health and safety of the child while balancing the rights of the parents. It is important that judges understand the science so that they can do justice when the defense lawyer argues, "It did not happen because the child recanted"; "It did not happen because the child's disclosures were not made close to the event"; "It did not happen because the child kept adding new information." As in domestic violence, the often frustrating

behavior of the victim needs to be explained to the trier of fact from the victim's perspective, by those who have studied this behavior.

When justice is not done in a sexual abuse case, the harm can be devastating. No jurist wants to take a child from her home and break up a family when abuse has not occurred. No jurist wants to leave a child unprotected in an abusive family. The reality is that it is very often difficult for a judge presiding over a child sexual abuse case to feel certain about his or her decision and interpretation of the facts. Many judges spend sleepless nights worrying about the ramifications of their decisions.

## Children's Disclosure Patterns in Sexual Abuse Cases

Sexual abuse cases are specialized cases that require specialized knowledge, a tool judges must have in order to do justice. Knowing the law alone is not enough. By understanding the research in the sexual

abuse field (see page 37 for a summary of research findings), judges can enhance their ability to make just decisions by applying the law to the facts.

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# Handbook on Questioning Children: A Linguistic Perspective

Anne Graffam Walker, Forensic Linguist

## Summary

If everyone is to have a level playing field in our legal system, it is essential that judges understand the differences between the capacities of adults and children to use and process language.

Law is all about language; it governs our legal world. Once oral, it now takes shape through the written word. But law is also a living, active, malleable entity, spoken first, recorded by whatever means afterward. In our court proceedings and pre-trial interviews/interrogations of any kind, the spoken questions and answers provide the measure by which we judge the credibility and reliability of witnesses. Generally, we assume that our standard is correct, but when children are involved, that assumption is an avenue to a wrongful result. The problem lies not only in the words we choose and the way we put them together, but in our assumptions that if a question is asked, whatever follows is an answer, as long as we can match it to the question we asked. Ask a 'where' question, you get a 'where' answer. Maybe, but maybe not, if a child is on the other side of the question. Perhaps what we're hearing is a *response*, which may or may not give the information sought, but not a real answer that we can rely on.

Such reliance is a mistake. We adults tend to believe that adults and children both use and process language the same way—at least by the time a child is in school. Some of us even apply that standard to three-, four-, and five-year-olds. When the questioner is a parent, a mismatch is generally caught. When the questioner is a social worker, police officer, attorney, a judge—anyone who questions children and must use their answers—a mismatch is generally not caught. And that makes a mockery of what ought to be the cardinal rule when children are involved in the legal system: *Everyone*—child and adult—has the right not only to *understand* the proceedings, but to *be understood*.

In *Handbook on Questioning Children: A Linguistic Perspective* the reader can find the reasons for and solutions to the problems sketched above. The handbook is short enough to be read often and taken to court. For a glimpse of the information to be found there, refer to the PDF of the table of contents. ([nationalcasa.org/download/Judges\\_Page/%200702\\_Table\\_of\\_Contents\\_0119.pdf](http://nationalcasa.org/download/Judges_Page/%200702_Table_of_Contents_0119.pdf))

Like any other tool that is essential in operating a machine, language is the *essential* tool without which the machinery of our legal system cannot function. It is a system built by adults, for adults, with adult language. It relies on adult comprehension (often sadly lacking). In courtroom proceedings, it relies on adults' ability to communicate unambiguously and fairly. But there is nothing fair about the usual communication between adult and child in our forensic exchanges today. The situation has, to be sure, improved since the publication of the *Handbook on Questioning Children* in 1999, but it is still shockingly inadequate today. Our questions are often too long and filled with adult words beyond most children's comprehension. We need to realize that the first requirement to answer a question is the ability to *remember* it from the beginning to the end. And the second requirement is that you can't give an accurate answer if you haven't *understood* the question. Wouldn't it make sense, then, that judges *demand* that in their courts, questions be kept short, and simple? We need to remedy this situation, most particularly when children, and other vulnerable populations, are involved. Children are still—even at the age of 17—"works in progress," and that's outside the formal environs and language of the courts. Once inside, the challenges to clear and accurate communication mount with the passage of time, number of questions asked, language used, and adults' expectations of children's abilities. But clear communication—the ascertainment of truth through facts obtained—is the goal of our legal system. For that goal to be reached, judges and attorneys alike must recognize and accommodate the divide between the cognitive and linguistic capabilities of children and adults.

Click here to see a PDF of the *Handbook on Questioning Children*. ([nationalcasa.org/download/Judges\\_Page/%200702\\_Handbook\\_0119.pdf](http://nationalcasa.org/download/Judges_Page/%200702_Handbook_0119.pdf))

[Back to Top](#)

## Online Resources

*Paula Campbell, Permanency Planning for Children Department, NCJFCJ*

### Summary

A listing of online resources on topics including interviewing children; creating child witness waiting rooms; preparing children for the court experience; and obtaining children's testimony remotely and by video conferencing.

Many courts and communities have instituted programs that help make the courtroom a less intimidating place for children. Following is a list of online resources that provide information on topics including interviewing children; creating child witness waiting rooms; preparing children for the court experience; and obtaining children's testimony remotely and by video conferencing.

### Child Friendly Court Rooms

#### **Edmund D. Edelman Children's Court in Monterey Park, California**

[colorado.edu/journals/cye/9\\_1/9\\_1article7.pdf](http://colorado.edu/journals/cye/9_1/9_1article7.pdf)

Part of the LA Superior Court System, the courtroom contains a number of child-sensitive features designed to create a comfortable environment that will lessen the trauma of appearing in court.

#### **Larry King's Clubhouse: Children's Play & Care Center, Inc.**

[nccourts.org/County/Mecklenburg/Programs/Clubhouse.asp](http://nccourts.org/County/Mecklenburg/Programs/Clubhouse.asp)

Housed in the Mecklenburg County Courthouse in Charlotte, North Carolina, the clubhouse provides a fun and safe haven for children during court proceedings.

#### **Kids' Korner, Nineteenth Judicial Circuit Court of Lake County, Illinois**

[19thcircuitcourt.state.il.us/kidskorn/kids.htm](http://19thcircuitcourt.state.il.us/kidskorn/kids.htm)

Provides a safe and fun waiting area for children who are in the courthouse to testify in court or whose parents or guardians are conducting court business. Each child who visits the Kids' Korner gets to choose a book to take home as part of the Give-A-Book Project to encourage parents to read to their children.

#### **American Prosecutors Research Institute, (Fall 2004), *Finding Words: Half a Nation by 2010*, "Forensic Interview Room Set-Up"**

[www.ndaa-apri.org/publications/newsletters/han\\_newsletter\\_fall\\_2004.pdf](http://www.ndaa-apri.org/publications/newsletters/han_newsletter_fall_2004.pdf)

This article examines the potential components of a child-friendly setting and considers the individual components of each element and its effect.

### Closed Circuit/Video Testimony

[locatethelaw.org/ManualWebFiles/VIDEOTAPETESTIMONY.htm](http://locatethelaw.org/ManualWebFiles/VIDEOTAPETESTIMONY.htm)

This document discusses the requirements for video and closed circuit testimony and covers three Florida Statutes which have been enacted by their legislature specifically for the protection of children under 16 years of age.

#### **American Bar Association, Center on Children and the Law, "How to Manual"**

[abanet.org/child/videotape.shtml](http://abanet.org/child/videotape.shtml)

This manual provides details about implementing a videotape or closed-circuit television program as well as other pertinent information to help protect the child victim from face-to-face confrontation with the accuser.

#### **The Use of Closed-Circuit Television in New York State: Questions and answers about the use of closed-circuit television in child sexual abuse trials.**

[criminaljustice.state.ny.us/ofpa/cctv.htm](http://criminaljustice.state.ny.us/ofpa/cctv.htm)

Bowman, Judge John, J., (January 1998), *DCBA Brief Online, Journal of the Du Page County Bar Association*, "Balancing the Emotional Needs of a Child and the Due Process Rights of a Defendant in Sexual Abuse Cases"  
[dcba.org/brief/janissue/1998/art10198.htm](http://dcba.org/brief/janissue/1998/art10198.htm)

The National Center for Victims of Crime, (1999), *Special Provisions for Children in the Criminal Justice System*, informational handout  
[mp.ncvc.org/ncvc/main.aspx?dbName=DocumentViewer&DocumentID=32472](http://mp.ncvc.org/ncvc/main.aspx?dbName=DocumentViewer&DocumentID=32472)

List of publications on advocacy/lawyers for children in the court  
[naccchildlaw.org/childrenlaw/recreadings.html](http://naccchildlaw.org/childrenlaw/recreadings.html)

## Checklists and Guides for Interviewing Children

Anne Graffam Walker, Ph.D., Forensic Linguist, "Checklist for Interviewing/Questioning Children," taken from the *Child Sexual Abuse Investigations: Multidisciplinary Collaborations*  
[childabuse.georgiacenter.uga.edu](http://childabuse.georgiacenter.uga.edu)

American Prosecutors Research Institute, (June 2003), *Finding Words: Half a Nation by 2010*, "Interviewing Children and Preparing for Court"  
[ndaa-apri.org/pdf/finding\\_words\\_2003.pdf](http://ndaa-apri.org/pdf/finding_words_2003.pdf)

Responding to the need for professionals with highly specialized interviewing skills, APRI has developed a comprehensive interview training course on a national level for thousands of frontline child abuse professionals.

**Chadwick Center for Children and Families, Child Welfare Referral Trauma Tool**  
[chadwickcenter.org/Documents/Trauma\\_History\\_Profile\\_Tool\\_draft\\_8%202023%2006n.pdf](http://chadwickcenter.org/Documents/Trauma_History_Profile_Tool_draft_8%202023%2006n.pdf)

This tool is designed to help child welfare workers and others working in the field of child trauma to make more trauma-informed decisions about the need for referral to trauma-specific and general mental health services.

**Trauma Assessment Pathway Model**  
[chadwickcenter.org/Assessment-Based%20Treatment.htm](http://chadwickcenter.org/Assessment-Based%20Treatment.htm)

The Trauma Assessment Pathway Model is an assessment framework developed by the Chadwick Center for Children and Families for understanding traumatized children and making informed clinical decisions with these children.

**Child Sexual Abuse Investigations: Multidisciplinary Investigations, An Internet Resource for Forensic Investigation of Child Sexual Abuse Cases.**  
[childabuse.georgiacenter.uga.edu/chronological/chronological.phtml](http://childabuse.georgiacenter.uga.edu/chronological/chronological.phtml)

A list of articles dealing with interviewing techniques for children and adult abuse victims.

US Department of Health and Human Services, Administration for Children and Families, *Children's Bureau Express* (Sept/Oct 2001, Vol. 2, No. 5), "Preparing Kids for Court"  
[cbexpress.acf.hhs.gov/articles.cfm?issue\\_id=2001-09&article\\_id=322](http://cbexpress.acf.hhs.gov/articles.cfm?issue_id=2001-09&article_id=322)

**Child Welfare Information Gateway, Children's Bureau. New resources are now available through the Children's Bureau's *Child Abuse and Neglect User Manual Series***  
[childwelfare.gov/email\\_announce/user\\_manuals.cfm](http://childwelfare.gov/email_announce/user_manuals.cfm)

Manuals provide the basic information CPS caseworkers need to prepare to go to court, including relevant terminology, descriptions of the key court processes and other practical information.

## Court Services

### **The Fairy Trials Project, The Circuit Court of Cook County, Illinois**

[cookcountycourt.org/services/index.html](http://cookcountycourt.org/services/index.html) (click on 'Court Services' > 'Fairy Trials Project')

This program offers an educational series of live interactive plays that introduce audiences to the court and the legal system. In each of the five "fairy trials," a classic fairy tale is adapted into a courtroom drama in a modern setting. The audience is challenged to help a judge decide what is fair by examining the facts of the case as well as their own values.

## Resources for Children

### **The Center for Families, Children & the Courts**

[courinfo.ca.gov/programs/cab](http://courinfo.ca.gov/programs/cab)

*What's Happening in Court?* is an activity book for children who are going to court in California.

### **Comfort for Court Kids, Inc., Edmund D.Edelman Children's Court, Monterey Park, California, "Making the Court System Work Better For Children: 25 Things Your Court Can Do"**

[courtkids.org/juriscontact.html](http://courtkids.org/juriscontact.html)

### **Online Projects for Kids, Nineteenth Judicial Circuit Court of Lake County, Illinois, *Learning About The Law* coloring books**

[19thcircuitcourt.state.il.us/kidskorn/kids.htm](http://19thcircuitcourt.state.il.us/kidskorn/kids.htm)

### **Ogawa, Brian, Ph.D., (1997), *To Tell The Truth***

[volcanopress.com/pages/catalog.cgi?mrchcatid=2%2014&mrchid=29&#top](http://volcanopress.com/pages/catalog.cgi?mrchcatid=2%2014&mrchid=29&#top)

A full-color illustrated book for children eight years and older to help guide them through the criminal justice system.

[Back to Top](#)