

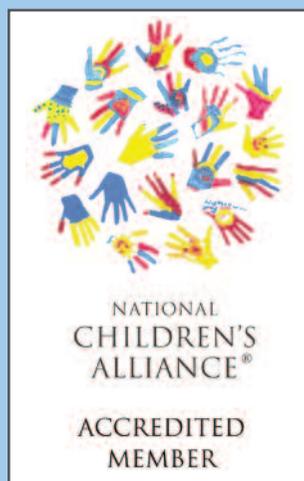
Kids Can Make a Difference



**A Guide for Professionals
To Help Prepare
Children & Caregivers for Court**

By Kristi House, Inc.

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To Help Prepare
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**This booklet was written and produced by
Kristi House, Inc. to accompany the award-winning
video production by Jessica Novack**

About Kristi House, Inc.

Kristi House is a non-profit organization providing services for children and their families who are victims of sexual abuse. Formed in 1996, Kristi House was named for a 9-year-old girl who was sexually abused and impregnated by her mother's boyfriend, giving birth at age 10. Sadly, her case is not unique. Many of Kristi House's clients find themselves in similar situations, but these children now have a safe place to go for help. Through its children's advocacy center, Kristi House serves sexually abused children by providing a community resource, a treatment center and a bridge to law enforcement. They combine all the services a victim and his/her family will need to help start the healing process.

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Table of Contents

Introduction	4
Children’s Developmental Abilities	5
Preschool Children.....	5
Elementary Aged Children	6
Preteens.....	6
Early Teens.....	6
Safety Issues	7
Working with Children	9
Meeting the Child	9
Watching the Video	10
Answering Children’s Questions.....	11
People and Terms of the Courtroom	12
What will Happen in Court	14
Working with Parents	17
First Meeting	17
Other Court Terms	18
What Parents May be Feeling	18
Supporting Parents	19
What Parents Can Say to Their Child	19
What Parents Can Do for Their Child.....	20
Working Through the System.....	21
Working in a Multidisciplinary System	22

Introduction

Typically, children are called into court for one of four reasons. First, the State Child Protective Agency may have requested a Dependency Hearing. Dependency Hearings are held to determine whether a child's home environment is safe and/or the child's caretaker is competent to protect the welfare of the child. Second, children may be in Family Court as part of divorce and/or custody hearing. Third, if a child has been arrested for a crime they would have their case heard in Delinquency Court. Finally, if a child is a witness to a crime, he or she may be called to testify in Criminal Court. There are reasons a child may be involved in more than one court, particularly if a child is a victim or witness to a crime within their own family. The video and material presented here were designed to be used to help prepare children ages 4 through 12 for appearances in court. The materials are targeted for those professionals assisting children who are victims or witnesses to crimes.

Most states have some provisions in law for children who testify in court. Different rules have been enacted that recognize the differences between a child's developmental, emotional, and cognitive levels from that of an adult. There is still significant disagreement on the effects of testimony on the child. The majority of research shows that children experience high anxiety levels before appearing in court. Research conflicts on whether the experience of testifying is beneficial or detrimental to children, although most studies show that caretaker support for the child is the single most important determining factor in the child's mental well being. This support is more important than any other aspect of the court experience, including the outcome of the trial.

Children's Developmental Abilities

In most states, judges and attorneys still try to avoid having children testify. Children's testimony is used when essential information cannot be reasonably obtain by other means. This is particularly an issue in child sexual abuse cases where the crime is committed without witnesses and leaves no physical evidence. It is here where a determination of the child's competency is vital.

For children to testify, they need to be able to understand and answer questions about a past incident. Often these incidents occurred months or even years in the past, so a child's recall is essential. A child also has to demonstrate an understanding of the difference between a truth and a lie. For a very young child, the concept of understanding a truth also involves understanding the difference between fact and fantasy. The following is a general overview of what may be expected of children of different ages. These are very broad descriptions. A child's ability to testify is also affected by intellectual functioning, experience, schooling, levels of anxiety, and depression.

Preschool Children

Children under the age of five can identify body parts, however they may often have immature, uncommon names, so it may be necessary for children to identify body parts by pointing to anatomically correct dolls or diagrams. Children at this age can answer simple "who," "what," or "when" questions, but do not have a good grasp of time concepts such as yesterday or tomorrow. They have short attention spans and will be unable to concentrate on questions after 15 or 20 minutes, so frequent breaks will be necessary. Children over three can distinguish between fact and fantasy and children over four understand the importance of telling the truth.

Elementary Age Children

Children at this age begin to sound more like adults, but may not fully comprehend all they are able to say. They have a concept of time, such as yesterday and tomorrow, but may not be able to give specifics such as months or dates. They may leave out important details during their testimony, and will have to be directly asked for specifics. Their attention span is slightly longer and they may be able to focus for up to 30 minutes. They begin to keep secrets, but understand the importance of telling the truth in court. They have general sexual knowledge, but should not be able to give specific information about adult sexual behavior.

Preteens

Preteens may still leave out details from testimony, but can answer questions of “how and why.” They have a much more complete memory and can be much more specific about the timing of events. They understand the roles of most people they may encounter in court.

Early Teens

Children in their early teens place a high value on others’ opinions, especially those of their peer group and parents, and may be hesitant to say anything that might affect others whose opinions they value. They may have begun to experiment with sex, but their experience and knowledge will vary greatly. They will be better able to put court outcomes into perspective.

Safety Issues

When working with children and their non-offending family members, it is important to evaluate and share any safety considerations with the family. The defendant's background may have a direct impact on the safety of the child. Has the defendant been arrested for any type of violent crimes, including domestic violence? Has the defendant violated no-contact orders or been arrested for stalking or harassment? Has the defendant had incidents of not showing up for court hearings?

During court, you should be aware of the defendant's behavior and the behavior of spectators. Any outburst or overt signs of hostility will shut a child down emotionally, and make it impossible for them to testify.

It is also very important to pay close attention to the child's demeanor so that you may quickly intervene on their behalf. Since children who are victims of sexual abuse have had intimate, often long term contact with the defendant, they will be sensitive to subtle behavior by the defendant. Perpetrators often use "controlling cues" that only the child can recognize. Perpetrators may have always worn particular clothing, glasses, cologne, or used certain gestures during the abuse that only the child is aware of and which the perpetrator may repeat during trial in an effort to intimidate the child.

Working with Children

Meeting the Child

When meeting the child for the first time, consider where the child would be most comfortable. Many children would prefer to be in their homes, and this should be your first choice of a meeting place whenever possible. If that is not possible, choose a meeting place that is child focused. For instance, there should be books and games available for the child while they wait for their appointment with you, along with child-size furniture.

Meetings should not be held behind closed doors without a parent or guardian present. A Children's Advocacy Center (CAC) is an ideal location if you have one in your area. The mission of a CAC is to meet all the needs of child victims and their non-offending family members. Meetings should not be held at the child's school, even though this might seem like the ideal location as it is a familiar, child-focused environment. However, the child may be very concerned about answering unwanted questions from school staff or peers.

Your affect should be friendly, but not patronizing. Children are sensitive to adult behavior, particularly those children who have been victimized by a trusted adult. Children should always be able to say who touches them. A pat on the back or handshake is fine if the child seems willing, but any other physical contact should be initiated by the child.

Be truthful with both your verbal and nonverbal interactions. You may have information about the abuse that is upsetting, but try to be as professional as possible. If children see you angry, worried, or upset, they will internalize these feelings and you will not be able to provide the assistance the child needs. At the beginning of the interview, spend some time getting to know the child. Ask general ques-

tions about school, hobbies, pets, and siblings. The child has already disclosed what happened and will have to again in court. Try to avoid having the child repeat the details of the abuse, unless it is absolutely essential to your purpose.



After you have spent a few minutes with the child, you may want to ask if the child knows why they are here to talk to you today. If they don't, you can say something like, "You have seen something/something has happened to you. We don't need to talk about what happened right now, but it is very important that you answer some questions about this in court and it is my job to help you. What would you like to know about answering questions in court?" If the child does not have questions, it is okay to start by asking the questions yourself to see what the child knows, and clarify any misunderstandings. Children will often ask the same questions more than once. Answer the question each time as simply and accurately as possible. Always check to see if the child understands. Some things may have to be rephrased depending on the child's developmental level.

Watching the Video

After you have spent some time with the child, this would be the time to watch the production together. Observe the child's demeanor and attention during the production, which lasts eight and a half minutes to 10 minutes (depending on the language version). After the production, review the questions and terms on the following several pages to see if all are clear to the child.

Answering Children’s Questions

Typical questions and answers that you might encounter follow.

What is court?

Court is where a judge or jury decides whether someone has broken the law and what should happen to the person.

Do I have to go to court?

What you have to say about what happened to you is very important. The judge and jury need to hear what you have to say so they can make the best decision. You have to be there in person to answer the questions.

How will I know what to do?

The adults in court don’t expect you to know what to do so they will tell you. You are only expected to answer the questions as truthfully as possible. You will be allowed to have someone with you in court that you can sit with while you wait to be called to answer the questions. We will go to the court and you will see what it looks like and we will talk about what you will do when you are there.

What if I don’t know the answer to a question?

You just tell the attorney or judge that you don’t know and that will be okay. Only tell the things you know, never guess and always tell the truth. If you don’t understand the question, tell the attorney or the judge you don’t understand and they will try to make the question clearer for you.

Will the “defendant” be there?

(Unless the child is very sophisticated they will not use the term defendant but will most likely use the name of the person and you should answer using whatever name they use. You can explain the term later when you are talking about the roles of the people in court)

Yes, the “defendant” will be there sitting at one of the front tables with his/her lawyer. You will not have to speak to them and they are not allowed to speak to you or touch you at all. Unless the attorney or judge asks you to point them out you don’t have to look at them.

People and Terms of the Courtroom

The following people and terms are related to going to court, which the child or caregiver might have questions about.

Courtroom – A place where people decide if a law has been broken and what should happen if a person broke the law. The courtroom is one of many in a courthouse. The courthouse is often a large building that is a very busy place. People may come to a courthouse for many reasons.



Judge – The person who runs the courtroom. He or she wears a black robe and sits at a large desk so everyone in court knows who is in charge. The judge makes sure everyone in the courtroom is following the rules.

Jury – The group of people chosen to decide if someone has broken the law and whether or not they should be punished.

Defendant – The person accused of breaking the law. You may have information that will help the jury decide whether the person has broken the law. You might be worried about this person because of what you know. You do not have to be afraid to tell the truth. You are very safe in the courtroom.

Trial – When a person has to come to court and has a Jury decide if they have done anything wrong, it is called a trial.

Bailiff – The bailiff is the person in the courtroom that wears a uniform and is like the courtroom police officer. He or she makes sure everyone stays safe.

Accused - When a police officer arrested someone because they broke the law then we say the person is accused of breaking the law. It is not really decided whether the person is guilty or not until the person has a trial.

Lawyers/Attorneys – These are two words for the same kind of job. Lawyers are people that study the laws of our country. There will be at least two lawyers in the court. Lawyers ask people questions and talk to the Jury and Judge about what happened. One is there to make sure the defendant gets a chance to explain themselves when they are accused of breaking the law. The other lawyer is trying to show why he or she believes the defendant did something wrong.

Witness – People who go before the Judge and the Jury. They answer the lawyer’s questions and tell what they know or what they have seen. Witnesses have to promise to tell the truth.

Testify – When the witness answers questions from the Lawyers or Judge it is called testifying.

Court Reporter – A Court Reporter sits by a special machine where they type up everything that is said in the courtroom. You need to answer all the questions from the Judge or Lawyers with words, not just shake your head yes or no, and speak so the Court Reporter can hear you.

Advocate – Sometimes going to court can be confusing even for adults, so an advocate helps people through the court process. You may have an Advocate sit with you in court while you wait to testify. They can help answer any questions you might have.

Other people you might see in court – Often there may be other people sitting in the back of the courtroom. They could be reporters, friends, or family members of the Defendant or the Witnesses. There may even be other lawyers. All these people have to stay very quiet in the courtroom during the trial. If they make noise or talk too loud, the Judge might tell them to leave.



What Will Happen In Court

Children's reactions can be as varied as those of any person who is required to testify in court. Many will be nervous, some will be excited, and some will be upset. Also, like most adults, having an understanding about

what will happen in court will go a long way toward reducing anxiety. Reassure the child that they have done nothing wrong and they are very brave to come to court. They will need to answer the questions truthfully and tell what they know. After viewing the video and discussing the terms and people they may encounter in court, it is time for the child to visit the court and practice going through all the steps that will be required of them. The following should be reviewed with the child and guardian during their practice visit to an empty courtroom.

What to wear to court – Children should dress in clean, nice clothes. They do not need to wear their best or fanciest clothes. They should wear clothes they are comfortable in and should bring a sweater or jacket because courtrooms can be cold.

Waiting to be called – Some courts have special rooms where children or family members can wait. Most still require children to spend some time waiting in court to be called to testify. They may sit with their advocate and should be encouraged to bring a book and/or favorite toy to reduce anxiety. They should be reminded that people in the back of the court must be as quiet as possible. If they have a question, they need to whisper to the advocate. Children should know as early as possible in the process that if their parent or caretaker is also a witness, they will not be allowed in the courtroom at the same time.

Swearing in – The child should know about this part and, if at all possible, they should have practiced walking up to the front of the court without their advocate. The child will be asked by the clerk or bailiff to swear to tell the truth.

Giving testimony – Children should practice sitting in the witness seat and speaking into the microphone. You should have the child answer some general questions making sure they know to speak up and can answer different types of questions. Children need to know that they can correct any mistake they have made or anyone else has made during their testimony by saying “I made a mistake” or “That is a mistake.” They also need to understand that often lawyers ask the same questions many times and they should continue to answer the questions truthfully and that it is okay to say the same thing about what happened more than once. It is okay to say “I don’t know” or “I don’t understand.” Creative practice questions can help solicit these answers, but the questions should not prompt children to give any information about what happened to them or what they saw as witnesses. It is essential that helping the child with their court appearance not slip into anything that can be construed as prompting or coercing testimony.

Taking a break – Children should be given frequent opportunities to take a break. They should know that they can ask for a break. Many school-aged children are accustomed to raising their hands in class if they need a drink of water or need to use the bathroom. This is a perfectly acceptable way for them to indicate to the Judge that they need to be excused. Remember, if the child takes a break and has not completed his or her testimony, the child should not discuss their testimony with anyone during that break.

After the testimony – When the child is excused from the court, the first thing he or she should hear is how brave they were to tell what they knew. They should be reinforced for the effort no matter what you feel about the testimony. The child might like to take a walk, talk about what happened, and ask questions. This is a good idea and it

would be helpful to have the child's parent or caretaker plan to spend some time with the child doing something enjoyable after the testimony and before the child has to head back to school or their regular routine.

The verdict – The child should know the different verdicts that are possible before the verdict is delivered. Some children may feel vindicated if the verdict is guilty while others may be very concerned with the welfare of the defendant if that person is also a beloved family member. As with all interactions with the child, the explanation of the verdict should be age appropriate, truthful, and allow for children to ask questions. No matter what the verdict, the child should be reinforced for trying to do the right thing.

Working with Parents

The following section addresses matters relating to your interactions with the child’s caregivers.

First Meeting

Leaving Messages – When leaving a phone message for a parent leave your name and phone number and as little information as necessary. The parent may be very sensitive to having other people knowing or asking questions about the case. You may not know who else in the house may have access to phone messages.

Clarify Your Role – Let parents know you are there to help them and their child through the court process. You will answer general questions and be a resource for them. Specifically, you will educate the child as to what to expect, show them the courtroom, and be there with them during the trial. Specific information or questions about the child’s disclosure should be answered by the prosecuting attorney. Parents should not expect you to hold information in confidence if it means risking the safety of themselves or their children. For instance, if the parents share with you that they are allowing the alleged perpetrator to have contact with the child, you are obligated to tell the prosecuting attorney as well as make a call to the Child Protective Hotline.

Asking Questions – Encourage parents to keep a notebook to hold important papers, names and phone numbers and to write down questions as they occur to them. Answer all their questions as honestly as possible. If you don’t know the answers, say so, and then find someone who does.

Other Court Terms

Parents may have questions about some of the following terms relating to the case.

Preliminary Hearing - Held to determine if there is some basis for trial.

Bond/Bail - Money posted by the accused as a promise to appear for trial.

Indictment – A formal charge against the defendant.

Suppression Hearing – Where the Judge decides if some evidence should not be allowed.

Sequestration - Allowing only one witness in the courtroom at a time so they are not able to hear each other's testimony.

Post-trial Motions – Requests made to the judge. These may be made by either attorney for a variety of reasons and may last for months before the actual trial.

What Parents May be Feeling

When abuse is reported, parents may feel many different emotions. The report can affect their life in many ways. Below are some thoughts and feelings parents may have when they learn about their child's abuse.

Denial – When a child is abused by someone the parent loves or trusts, the first reaction may be to not believe that the abuse happened. A parent may not accept that it happened or not believe that real harm was done.

Anger – At times, parents feel angry at themselves for not protecting their child. They may feel angry at the person who abused their child. They may even feel angry at their child. Parents need to share their

feelings with a trusted family member, friend, or professional counselor.

Helplessness – Parents often feel like things are out of their control. Some parents may fear that their children will be taken away.

Shock & Repulsion – Parents who have a history of abuse in their own lives often have strong negative feelings when similar things happen to their own children. Parents may need to work with a therapist to overcome strong emotional reactions to abuse.

Guilt – Parents may feel it is all their fault, but the offender is responsible for the abuse.

Supporting Parents

The single most important factor affecting children's recovery is the level of support they receive from their caretaker. Try to be as supportive as possible knowing that a parent who feels supported is much more likely to support their child. However, be clear with parents that children almost never tell about abuse to create a problem. More often, children fear that telling will make people angry at them. It is extremely difficult for most children to report abuse.

What Parents Can Say to Their Child

I believe you.

It's not your fault.

I am sorry this happened to you.

It has happened to other children, too.

I am upset, but not with you.

I am glad you told.

I will take care of you.

What Parents Can Do for Their Child

- ❖ Return to a normal routine as soon as possible.
- ❖ See that their child receives therapy. The problems the abuse causes for them and the child will not go away by ignoring them.
- ❖ Find help for themselves. They don't have to do it all alone.
- ❖ Be careful not to question their child too much. If their child wants to talk about it, they should listen supportively, but not push.
- ❖ Keep their child away from the person suspected of abuse. Never leave their child alone with the person.
- ❖ Avoid discussing the case with other victims or their families.
- ❖ Never coach their child on what to say. Encourage the child to tell the truth.
- ❖ Remember to give attention to their other children.

Working through the System

Here are some basic tips for parents working with professionals in the system.

- ❖ When you are asked for information, try to provide as many facts as you can. Cases are built on the four Ws: who, what, when and where. Don't guess if you don't know the answer to a question.
- ❖ Feelings are valuable in giving investigators insight, so tell how you feel and why you feel that way.
- ❖ Always be honest, even though the truth may not seem favorable to yourself or to your child. In the long run, you will be much better off.
- ❖ Try not to overreact. It is a difficult time and emotions are running high. Losing control can hurt the case and overshadow the needs of your child.
- ❖ Cooperate. You may feel that the investigators are prying into your personal life, but this is necessary and vital to the case and to your child's welfare. The sooner the facts come out, the sooner the case can be resolved and you can return to a normal life.

Working in a Multidisciplinary Setting

As in any type of child abuse or neglect case, there are a number of professionals that will be involved with a family who is facing allegations of child sexual abuse. When allegations of child sexual abuse are made, both law enforcement and the local office of the state child protection agency will begin an investigation. If the allegation alleges sexual penetration or there is a suspicion that this has occurred, the parent or guardian will be required to take the child for a forensic medical exam. If law enforcement finds enough evidence for an arrest, the child will be interviewed by the office of the state attorney. If the state attorney's office decides to prosecute, the child will again be interviewed by the defending attorneys in a deposition. Families may work with a social worker to assist with social service and therapeutic needs. Many law enforcement and state attorney's offices have victim witness coordinators to assist families through the trial. In addition, children involved in criminal cases may be assigned a Guardian ad Litem who is responsible for representing the rights of the child during the trial.

Historically, families have had to travel to many different offices to work with the variety of agencies. Adding to the difficulty for families is the fact that child sexual abuse cases are particularly difficult to prosecute because there is often no physical evidence or other witnesses, and the state attorney must rely of the strength of the child's testimony. This often leaves the child in the position of testifying against a family member and being the center of serious family crisis. Children placed in this untenable position often recant their disclosure, leaving them vulnerable to continued abuse.

Children's Advocacy Centers were designed to provide all the services the child victim and non-offending family members need in one child-focused location. This collocation of agencies fosters collabora-

tive interactions to better serve the needs of the children. There are several positive outcomes from working within the Advocacy Center concept. First, coordination of services reduces duplication and client wait time. Second, taped forensic interviews can help reduce the need for children to have to recount traumatic events. Third, a child-focused environment reduces child anxiety and encourages families to return for follow-up services. And finally, providing needed therapeutic services for the children and families helps begin the healing process, no matter what the outcome of the trial.

The National Children's Alliance is the best place to find out about the Children's Advocacy Center in your area. The NCA toll-free number is 1-(800) 239-9950. On the Web it's at <http://www.nca-online.org>.

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