

RESPONDING TO CHILD VICTIMS AND WITNESSES

Innovative Practices in the Courtroom

DISCUSSION GUIDE

SOME FACTS ABOUT CHILDREN AND VIOLENCE

Children are far more likely to be victims of crime than they are to be perpetrators. Statistics show that young people commit about 18 percent of crimes, but they represent about 33 percent of crime victims. Only 28 percent of violent crimes against juveniles are reported to police.

THE EFFECTS OF VIOLENCE CAN BE DEVASTATING

Short-term consequences of child victimization include

- ▶ Fears.
- ▶ Post-traumatic stress disorder.
- ▶ Behavior problems.
- ▶ Sexualized behaviors.
- ▶ Poor self-esteem.
- ▶ Depression.

Childhood sexual abuse, in particular, has been linked to serious problems extending into adulthood. These problems include

- ▶ Guilt, shame, and self-blame.
- ▶ Anxiety and depression.
- ▶ Post-traumatic stress.
- ▶ Isolation and fear of intimacy.
- ▶ Revictimization.
- ▶ Self-injurious behavior.
- ▶ Substance abuse.
- ▶ Physical symptoms.
- ▶ Eating disorders.
- ▶ Certain psychiatric disorders.

Being abused or neglected as a child increases the likelihood of arrest as a juvenile by 53 percent and the likelihood of arrest for a violent crime as an adult by 38 percent.

Even if they are not victims, children who witness violence in their homes or in their communities exhibit many of the same short- and long-term consequences.

REMOVING BARRIERS IN THE COURTROOM

Children Can Be Effective Witnesses

Most states now recognize that children are competent witnesses. Competency tests in court generally focus on the child's ability to differentiate between truth and lies, and to appreciate the duty to tell the truth.

Even very young children can provide accurate statements and testimony when they are questioned

- ▶ In developmentally appropriate language.
- ▶ In a supportive but non-leading manner.
- ▶ In a "child-friendly" environment.

Furthermore, although children are generally anxious and distressed when required to testify, this trauma is short-lived for most children.

Discussion questions:

- Do you require child witnesses to demonstrate competency before they testify? If you do, why is this test necessary?
- Do you think that competency tests adequately assess a child's capacity to testify?

What Judges Can Do To Help Children Testify

Concern about the "re-victimization" of child victims in criminal court stimulated new laws and practices designed to remove barriers and reduce trauma for children.

Some of the most effective strategies do not require statutory authority:

- ▶ Preparing children for court through tours and education.
- ▶ Providing a "child-friendly" waiting area in the courtroom.
- ▶ Allowing frequent breaks during the child's testimony.
- ▶ Ensuring the use of developmentally appropriate language.
- ▶ Permitting children to enter victim impact statements.

Preparation for court does *not* mean "coaching." Rather, it means explaining what to expect in court. This helps alleviate children's fears and makes them stronger witnesses.

Other strategies may benefit from, but do not require, statutory authority:

- ▶ Allowing a support person to accompany the child, e.g., a victim advocate, guardian *ad litem*, or Court Appointed Special Advocate (CASA).
- ▶ Prioritizing the docket to expedite cases with child witnesses.
- ▶ Allowing children to use testimonial aids, such as dolls or drawings.

The U.S. Supreme Court has even recognized the need to alter the courtroom environment for children under certain circumstances:

► By excluding spectators from the courtroom when children testify. *Globe Newspaper Co. v. Superior Court*, 457 U.S. 596 (1982).

► By allowing children to testify via closed-circuit television or prior videotaped testimony (e.g., from a preliminary hearing or deposition). *Maryland v. Craig*, 110 S. Ct. 3157 (1990).

In *Maryland v. Craig*, the Court requires a finding that children will be traumatized "beyond de minimus," by fear of the defendant, not of the courtroom generally.

For more information on pertinent federal and state statutes and case law, contact:

- National Clearinghouse on Child Abuse and Neglect:
800-FYI-3366
- National Center for Prosecution of Child Abuse:
703-739-0321

With the proper support and guidance, most children can provide accurate, credible, and compelling testimony without feeling re-traumatized. By giving children a voice, the courts can better assure that justice is served.

Discussion questions:

- What strategies are available to you to remove barriers for child witnesses?
- How are children prepared to testify in your court?
- How would you know if a child's distress interfered with his or her ability to testify?
- How would you identify the source of a child's distress?
- How can you determine if a child's fear of the defendant is preventing him or her from testifying effectively?

For additional information on innovative practices featured in this videotape, please contact:

► **National Council of Juvenile and Family Court Judges (NCJFCJ)**

Permanency Planning Department
Technical Assistance Resource Division
775-327-6303

Resource Center for Family Violence
775-784-6228

► **Office of Juvenile Justice and Delinquency Prevention
Juvenile Justice Clearinghouse**
800-658-8736

► **National Center for State Courts**
757-263-2000

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Information included in this discussion guide was obtained from the following sources:

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