

# Child Sexual Abuse: Coping with the Emotional Stress of the Legal System



## Information for Parents and Caregivers

Children and adolescents who have been sexually abused frequently face the prospect of going to court. Although [legal action can be an important step in helping children and families move forward and recover from the trauma of child sexual abuse](#), it can also add to the stress of coping with life after the abuse.

If your family is involved in a legal action related to child sexual abuse, knowing what to expect can help your child or adolescent cope with the stress. You can help prepare yourself and your family by learning more about the role of the legal system, common concerns about legal action, and suggested strategies to cope with the legal process at different stages.

## Understanding the Role of the Legal System in Child Sexual Abuse Cases

Your level of control and input will vary depending on the type of legal action that is involved. When your family is involved in legal action, it can be helpful to understand the different types of cases and their goals. Some of the most common types of legal cases are listed below.

- In [criminal cases](#), the goal is to protect society as a whole. The prosecuting attorney's role is to represent the entire community, not just the child who has been abused. The prosecutor decides how the case is conducted, and whether charges are filed or dismissed.

The lack of control over important decisions in criminal cases can be frustrating and distressing for victims and their families, particularly when their wishes differ from those of the prosecuting attorney, or when the verdict or sentencing is not what they had expected.

- In [private civil cases](#) (custody cases, restraining orders, suits against the abuser for personal injury, etc.), the goal is to ensure the best interests of the child and/or to obtain financial restitution for the emotional and physical costs of the abuse.

Because the parent, guardian, and/or child are the ones bringing the suit, they make the important decisions about how to conduct the case, and may be responsible for some of the court fees. A guardian *ad litem* (see “Court Q & A” box on page 4) may be appointed by the court to represent the child’s interests, but in private civil cases this will usually be at the expense of one of the parties.

- In **child protection cases**, the goal is to protect the child when there is evidence that the child has been abused by a parent, guardian, or other primary caregiver. During child protection hearings, decisions may be made to remove the child or adolescent from the family and place them in the temporary custody of a foster home or other placement.
- As with criminal cases, in child protection cases the government files the legal action, which means that the family does not have the right to dismiss the case. A guardian *ad litem* (**See Box**, p. 4) will be appointed to represent the child’s interests at the government’s expense. Understand that the goal of these actions is not to punish the parent or caretaker, but to protect the safety and well-being of the child.



Legal action can be an important step in helping families move forward.

## Common Concerns about Taking Legal Action

Many abused children, adolescents and their families are worried about getting involved with the court process. They may want to get on with their lives and leave the abuse in the past. They may be afraid of losing their privacy, or feel embarrassed or ashamed about what happened. They may worry that going to court will cause more trauma and pain. These are all understandable concerns.

However, if children or adolescents have been sexually abused, it is also possible that the legal system can be of help to them and their families. In addition to giving children and adolescents a chance to stand up for their rights and speak out against those who hurt them, **participation in a criminal prosecution or a civil suit assures them that there are people who support them and believe them, and that they are trying to make sure the offender is held responsible for what was done.**

**Table 1** lists some of the most common concerns about going to court in child sexual abuse cases, and suggests methods of coping with or reducing those concerns.

Also keep in mind that there may be local support groups, crisis centers, child and civil rights law firms, and Legal Aid agencies that provide free support services for court related cases. In addition, many communities have Children’s Advocacy Centers (CACs) that offer coordinated support and services to victims of child abuse, including sexual abuse. For a state-by-state listing of accredited CACs, visit the website of the National Children’s Alliance ([http://www.nca-online.org/pages/page.asp?page\\_id=3999](http://www.nca-online.org/pages/page.asp?page_id=3999)). If you are experiencing difficulty in getting the answers you need from the legal system, these groups can be of assistance in contacting the court system for you.

Table 1. Going to Court—Fears and Realities

Fear	Reality
<p><b>Loss of privacy</b></p>	<p>Frequently when the victim is a child or adolescent, lawyers can ask that TV cameras be barred from the courtroom and that only necessary people be allowed to remain there, such as witnesses and law enforcement officers. Many cases never become high profile, and settle quietly out of court.</p> <p>The court will do everything it can to protect your privacy, and responsible reporters have policies not to disclose the name of a child victim. However, it is possible that some people in your community will know—or think they know—who is involved. If this occurs, it can help to talk to school staff, spiritual leaders, and other parents about how they will handle the curiosity and questions of other children.</p> <p>It is important to reassure your child that it is the abuser, not your child, who is responsible for what is happening. Getting appropriate treatment for your child is often the best step you can take in helping your child deal with issues of loss of privacy.</p>
<p><b>Fear of retaliation</b></p>	<p>Defendants in criminal cases are usually under court order to have no contact with the victim and the victim’s family while the case is pending. This may also be true in child custody or child protection cases. If you or your child are concerned about safety, you can take steps to make yourselves feel more secure. Several suggestions are included below.</p> <ul style="list-style-type: none"> <li>■ Notify the child’s daycare or school of the situation, and make it clear that the abuser is to have no contact with your child.</li> <li>■ Keep a cell phone handy, ideally one with picture-taking capability, to document any instance where the abuser is violating any no-contact court order.</li> <li>■ Encourage children or adolescents to talk about their fears. Be honest about the likelihood of a particular fear actually happening, and do your best to keep unrealistic fears in check.</li> <li>■ Report threats or concerns about safety (e.g., calls in the middle of the night, etc.) to law enforcement, your crime victim advocate and/or the prosecuting attorney or civil attorney representing you and your family. All of these professionals can potentially take steps to address your safety.</li> <li>■ Obtain information about a civil protective order. Child sexual abuse cases are frequently covered by domestic violence protective order laws and other types of protective orders, which are free and carry no court costs to obtain.</li> </ul>
<p><b>Financial worries</b> (e.g., missing work to go to court, paying for legal, medical, and/or mental health services)</p>	<p>Keep in mind that children are often sensitive to parents’ financial worries, and may blame themselves for causing financial stress. Assure your child that he or she is not to blame for the situation, and that resources are available to help. Ask your child protective services worker, crime victim advocate, and/or other involved professionals for advocacy and possible resources.</p> <p>Many states and communities offer financial assistance, including funds for crime victim compensation even if the case is not prosecuted or does not result in a conviction. These types of funds generally cover payments for necessary medical/mental health services for sexually abused children. Some also offer compensation for lost work time and other expenses related to prosecution of criminal acts. Ask your local law enforcement, civil attorney, prosecutor’s office, crime victim advocate, or child protective services worker for information.</p>
<p><b>Missing school for court and other necessary appointments</b></p>	<p>Talk to school administration about allowing children to finish schoolwork on a schedule that takes into account their abuse-related needs. Designate a particular teacher or staff member that the student can turn to if she or he feels overwhelmed during school hours.</p>

## Coping with the Court Process: Step by Step

### Step 1: The Investigative Phase

During the investigative phase, several different agencies may be involved in the investigation of the case. The immediate issues to be addressed may include establishing whether sexual abuse has occurred, who abused the child, where the abuse occurred, and how to ensure the child's immediate and future safety. Other issues focus on the child's medical and psychological needs, and the child may need a medical exam or a psychological assessment. For example, medical testing for injuries or sexually transmitted diseases, or counseling support for symptoms of depression, anxiety, or sudden changes in mood may be necessary.

The early investigative phase is a time when many things happen quickly and all at once. Sometimes the information may be confusing, overwhelming, or even conflicting between different service providers involved in the case. It is also a time when children, adolescents, and families are called upon to make many important and potentially difficult decisions and changes, such as:

As you navigate the legal process, keep in mind that the most important consideration is the safety and well-being of your child.

- Whether to have a medical exam or interview
- Whether to cooperate with law enforcement and child protective services to help build the case and keep the child or adolescent safe from further harm
- Whether to cut off contact with the abuser
- Whether to arrange for counseling or mental health treatment

As you navigate the legal process, keep in mind that the most important consideration is the safety and well-being of your child. If you are confused by the legal jargon, getting conflicting information from different people, or just feeling overwhelmed, don't hesitate to reach out for help. For information about mental health treatment for your child, go to [www.NCTSN.org](http://www.NCTSN.org).

At this phase of the legal process, the full impact of disclosing sexual abuse becomes real, and your child or adolescent may be forced to talk about the abuse with people who are complete strangers. This can lead to a number of difficult reactions, including:

- Conflicted feelings about the abuser, especially if he or she is someone the child or adolescent likes, admires, or loves
- Guilt about the effect his or her disclosure is having on the abuser's family
- Self-doubt or embarrassment if he or she has unclear or confusing memories about the specifics of the abuse or feels that they may have invited the abuse

#### Court Q & A

*The judge appointed a guardian ad litem for my child. What does this mean?*

Guardian *ad litem* means *guardian at law*. This is a person appointed by the judge to advocate for the best interests of the child in a particular case. Appointment of a guardian *ad litem* usually happens in cases where the child disagrees with the parent or caretaker about how to proceed or where there is evidence that the caretaker may have been involved in or in some way responsible for the abuse. (For example, by failing to protect the child against harm by another person.)

Children and adolescents should be reassured that neither the abuse nor the impact of the resulting legal process is their fault. **The abuser is the sole person responsible for the harm**, and for setting the legal system into motion. Obtaining appropriate mental health counseling can help children and adolescents deal with both the trauma of the abuse and the stresses and confusion involved in the legal process. Over time, children, adolescents and their families become increasingly familiar and comfortable with the investigators and professionals involved in the case, and may even find them to be a source of comfort and empowerment as the legal process goes on.

If either you or the government decide not to go forward with a criminal or child protective services legal case related to the child sexual abuse, you may feel at a loss because the service providers who were assisting you are suddenly no longer there. It is important to continue to reach out for help from the victim advocacy community if you feel you or your child needs it. This may include continuing to learn about alternative legal choices such as civil protective orders, obtaining financial assistance, or seeking counseling for yourself and your child.

Sometimes when a case is dropped, families can feel betrayed by the process because they wanted the offender to be held more accountable. It can be a harsh reality for families to learn that the legal system relies on obtaining enough evidence to go forward to trial, rather than on the beliefs of the family and other professionals that the child was indeed abused.

## Step 2: Going to Trial

Once the decision is made to go forward with the case, the whirlwind of the initial investigation usually stops and there may be a lull as lawyers prepare for the trial. In many, if not most, criminal and civil legal cases the case never actually goes to trial. Instead, it is settled before the trial date, either with a guilty plea to a lesser charge (in criminal court) or a negotiated settlement (in civil court). For some families, such out of court settlements may be a relief—a way of moving on and putting the case behind them. For others, plea bargains and negotiated settlements may make the family feel as if they or the system are giving in or that the punishment has not been adequate.

### Court Q & A

*I feel like no one is talking to us about what is going on with this case. What can I do to find out more?*

In every state, law enforcement and prosecuting attorneys are required to provide crime victims with information about their rights in the system. If there is conflict between the family's interests and the government, families can get information about the case and about the rights of victims from government victim witness assistants.



If the case does go to trial, children or adolescents may have many questions about what will happen in court. The answer will depend on the child's age; younger children need shorter answers and less detail than older ones. For example, it is normal for children to be worried that the person who hurt them might try to do so again, or will try to get back at them for "telling." It is generally enough to reassure younger children that abusers know that the police can arrest them if they come near the child or family. With older children and adolescents, it can help to explain that the abuser is under a court order to have no contact, and to describe the penalties the abuser would face for violating the order. Such explanations also give adult caretakers the chance to **reassure children and adolescents that the responsibility for the abuse belongs to the abuser, no matter what.**

When your child asks whether the abuser will be held accountable for the abuse, it is important to be both honest and reassuring. Children and adolescents should know that no matter what happens in court, they are supported and believed, and the abuse was not their fault. Adults can talk with their children about the feelings that led to the question, and about their own feelings. If children or adolescents show signs of behavioral or emotional distress related to the abuse or court involvement, this may be a good time to explore treatment options.

During the trial, giving court testimony can be stressful, but it can also be empowering, offering the child or adolescent the opportunity to tell their side of the situation. Hearing others testify can sometimes be just as emotional as testifying. Your child may feel angry or sad when hearing about the experiences of parents or siblings, or feel outraged if he or she believes that witnesses are lying.

### **Tips for Helping Children Cope with the Stress of a Trial**

**Maintain normal routines.** Younger children especially feel more secure when their daily lives follow predictable patterns. Don't let life revolve around the case or the abuse. Set regular times to do ordinary family things together, such as playing board games, helping with homework, or going to the movies together.

**Set normal expectations.** In order to feel safe and secure in their world, children (even adolescents) need parents to make and keep the rules. Although you may be tempted to "let things slide" because of the stresses your child is experiencing, big changes in routine may actually tell your child that he is now somehow different. Try to maintain schoolwork, chores, and behavioral expectations as much as possible.

**Expect the unexpected.** Don't be surprised if your child acts a little younger than his or her age during this time. Stressed children often revert to behaviors they've grown out of; it's their way of expressing that they don't feel so sure of themselves just now. Responding with reassurance and empathy will help. If your child begins to frequently act in ways that worry you, though, you may want to consider counseling for her or him.

**Don't make life all about the trial.** Let your child decide when to talk about court-related issues, and provide him or her with plenty of reminders and opportunities to just be a kid. If you have concerns that your child is very worried, scared, ashamed or embarrassed about something and isn't talking about it, try to bring out feelings with general questions like "Is there something on your mind?" or "You look like something's bothering you," rather than asking directly about court. Choose a time when you'll be able to continue the conversation once it's begun, in case it's a long one.

**Avoid information overload.** Part of what makes court involvement so stressful is that parents and children have no control over how—and when—the case will move forward. The court's plans can change suddenly, and court schedules often depend on the timing of other events. How much you tell your child will depend on your child's specific needs and desires. Abuse takes choice away from the victim, so any choices your child can appropriately be given will be empowering. For example, if a trial is rescheduled, your child might want to know the new date—even if it's months away—or may not want to know until its time to start preparing for the trial.

**Build supports outside the family.** Normal family supports can become splintered during child sexual abuse cases, particularly when the abuser is a family member. It may be useful to make a list of everyone in your community who can help when needed. If you are religious, a church, synagogue, or mosque may be a place of healing and hope. (If you experience judgment or blame at your place of worship, don't hesitate to seek a more welcoming environment to meet your spiritual needs.) Look outside of your immediate circle of friends and relatives, especially if that circle is small, or if it contains people who can't, don't want to, or don't know how to support you and your family. Many communities have organizations that exist just to help children and families in this kind of crisis. Please see the resource list at the end of this document for places to contact.

**Take care of yourself.** You can't support your child if you're at the end of your rope. Be aware of your own physical and emotional needs. Make every effort to eat well, get a decent night's sleep, and exercise as much as possible. If you need a break, give yourself permission to get what you need and turn to others for help. Pushing away troubling feelings will only make them come out in another (usually unhealthy) way. While it may be tempting to get a "quick fix" on tough days by using alcohol or drugs, these substances can actually make it harder for your body to recover from stress. If you find yourself drinking or taking drugs to escape painful feelings, recognize this as a clear sign that you need to get help.

Just going to court can have a dramatic emotional impact, particularly if it is the first time your child has seen the offender since he or she disclosed the abuse. You may be worried about sharing a waiting room in the courthouse with the defendant, hostile witnesses or family members loyal to the offender. If this is the case, law enforcement, attorneys, and court personnel can often arrange a variety of safety measures for your time in court, including accompanying you to and from the parking lot, providing separate waiting areas, and many other measures. A tour of the court facility before the trial, and knowing where the safety officers are positioned, can be a reassuring experience for children, adolescents and their families. Feel free to ask for as much information as you wish from the service providers involved in your case. You have the right to know what is happening in your case, to inform the attorneys of what you would like to have happen, and to provide victim impact statements or other feedback to the attorneys involved.

### *Step 3: Coping with the Verdict and Moving On*

Once the case is over, you may feel a range of emotions regardless of the actual outcome. If the abuser is convicted, you may be very relieved, feel dissatisfied with the plea agreement or sentencing decision, or feel surprisingly “let down.” If the abuser was a close family member, there may also be sadness and grief mixed in with the satisfaction. If the abuser is acquitted, the resulting anger, fear, and sadness may be difficult to face. However, remember that support services are available both during and after the court case. Also remember



**You have the right to know what is happening in your case.**

to reassure the child or adolescent that the court does not determine whether the abuse happened or not, but rather whether there is enough evidence to show that it did. Although the court system tries to find the truth, it cannot ever determine whether something really happened or not.

Simply ending such a long ordeal can be very emotional, and you and your child will need a great deal of support so that you can adjust to life after the trial, and get back to a normal school and work schedule. Once your case is completed, friends and family may feel that it is okay to ask your child questions about the case or the abuse. It is important to protect your child or adolescent from such intrusive questions. Clearly communicate to friends and family that your child is still healing both from the abuse and from the stress of the legal experience.

For most families, the decision in the civil or criminal trial related to child sexual abuse is the end of the legal process. However, for some there are other legal actions pending, such as a family court action. Less commonly, the defendant may file an appeal claiming the trial court made an error and seek to overturn the decision. Legal advocates and mental health and community service providers may also provide ongoing support to families when the legal matters take longer than expected.



## Additional Resources

The **Judicial Council of California, Administrative Office of the Courts, Center for Families, Children and the Courts** ([www.courtinfo.ca.gov/programs/cfcc](http://www.courtinfo.ca.gov/programs/cfcc)) offers a children's activity book, *What's Happening in Court*, with an interactive website component, designed to help children prepare for civil and criminal court. All materials are available in English and Spanish.

The **National Center for Missing & Exploited Children's** ([www.missingkids.com](http://www.missingkids.com)) *Just in Case* series includes practical suggestions for parents of children testifying in court. Go to the "Resources for Parents and Guardians" section of the web site, click on "More Publications" under "Featured Publications" to find the series. (Other titles in the series relate to preventing exploitation of children.)

The **National Children's Alliance** ([www.nca-online.org](http://www.nca-online.org)) offers a state-by-state listing of accredited Children's Advocacy Centers, community-based facilities where members of the child protection, law enforcement, prosecution, victim advocacy, medical and mental health communities provide abused children and their families with comprehensive, coordinated services and support.

The **American Bar Association Center on Children and the Law** ([www.abanet.org/child](http://www.abanet.org/child)) offers a range of resources and publications on the legal process in civil and criminal child abuse and neglect cases.

The **Rape, Abuse, and Incest National Network** (RAINN, [www.rainn.org](http://www.rainn.org)) can help you locate a rape and sexual abuse response agency near you, and provides links to other helpful resources. They can be reached toll free at 800-656-HOPE (656-4673).

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