



TRAUMA-INFORMED RESPONSES TO CHILDREN WHO COMMIT CRIMES AGAINST THEIR ABUSERS

LEGISLATIVE ISSUE BRIEF

Sex Abuse & Trafficking

In the United States, Child Protective Services estimates that 63,000 children are sexually abused each year. In the U.S., 1 in 9 girls and 1 in 53 boys under the age of 18 experience sexual abuse or assault at the hands of an adult, 93% of which are committed by an individual that the child knows. Children who are victims of sexual assault are four times more likely to become addicted to drugs, four times as likely to experience Post-Traumatic Stress Disorder, and three times more likely to experience a major depressive episode.

In 2015, the National Center for Missing and Exploited Children estimated that 1 in 6 endangered runaways are likely child sex trafficking victims and that approximately 100,000 U.S. children are sexually exploited every year. Child victims of sex trafficking are often subjected to physical and sexual abuse by their traffickers and the “johns” or “buyers” that exploit and rape them.

Traumatic Bonding and Post-Traumatic Stress Disorder

The reasons why sexually abused or trafficked children may lash out against their offenders can be understood by examining psychological research. According to psychologist Dr. Michael Welner, abusers often make their victims undergo prolonged stages of grooming: (1) targeting the victim, (2) gaining the victim’s trust, (3) filling a need, (4) isolating the child, (5) sexualizing the relationship, and (6) maintaining control.³ According to Welner "...a skillful abuser, gets into the child's DNA and becomes a part of the child, and the child can't cast him off regardless of the age."

These grooming tactics lead to traumatic bonding, in which a victim develops a dysfunctional attachment to his or her abuser. Traumatic bonding is characterized by misplaced loyalty, and is found in situations of exploitative cults, incestuous families, or in hostage or kidnapping situations. Over the years, clinicians have referred to similar abnormal psychological attachments as “Stockholm Syndrome” and in the case of domestic violence, “Battered Person’s Syndrome,” which take place in different abusive situations.

This phenomenon, coupled with the fact that children’s brains are not fully developed, prevent them from understanding the consequences of their actions as it relates to individuals who have committed

severe abuse against them. Children cannot control their emotions and impulses and cannot evaluate risks in the same manner as adults. In addition, children who suffer from repeated and brutal victimization often have no way of understanding that they could be incarcerated for an action that they believe is self-defense against their abuser.

Inadequacy of Self-Defense Claims

While psychological research shows that children who have been victimized have real feelings of danger triggered by their abusers, the law does not always recognize this under the theory of self-defense. A self-defense claim is usually valid in the law only when the individual feels that “the danger of bodily harm is imminent.” For many child victims of abuse or trafficking, they are not always in danger of “imminent harm” under the legal definition when they commit crimes against their abusers. Nevertheless, sound public policy should dictate that children who commit crimes against their abusers are provided with treatment and services, not criminal punishment. The child would not have committed a crime if it were not for the abuser having abused or trafficked the child in the first place. Therefore, the law should focus on treatment, not punishment, of the child victim.

Recommendations

Instead of condemning children who commit offenses against their abusers to prison, **they should be held accountable for their actions in a trauma-informed and age-appropriate manner.**

Policymakers should, where possible, keep these children in the juvenile and family court system to be adjudicated appropriately and provided with treatment and rehabilitative services. Legislation should ensure that judges who encounter children in these situations have more sentencing options and greater discretion, including the ability to depart from mandatory minimums, suspend sentences, and where appropriate, give jurisdiction over the child back to the juvenile or family court system. Since these children are unlikely to reoffend trauma counseling, community-based treatment services, and other rehabilitation measures should be used to help the child heal and prepare to re-enter society in the best possible position to succeed.

Sample Bill Language

Sara’s Law

If a court finds by clear and convincing evidence that the person against whom a child has committed an offense against, previously trafficked or sexually assaulted the child in violation of [statutory citation] or [statutory citation], the court may, in its discretion:

- (a) Depart from any mandatory minimum sentence or sentencing enhancement at the time of sentencing; or*
- (b) Suspend any portion of an otherwise applicable sentence; or*
- (c) Transfer the child to the jurisdiction of the juvenile or family court for proper adjudication.*