

The New Jersey Charitable Immunity Act

The New Jersey Charitable Immunity Act protects any charitable organization from civil liability for the acts of its employees or volunteers. As it is worded, a school, for example, could set itself up as a charitable organization, advertise for pedophiles to teach there, and not be held liable for their actions. A terrorist organization could set itself up as a charitable organization in New Jersey and not be held responsible for its employees and volunteers planning another version of the World Trade Center bombings.

In recent years, the Catholic Church and several other organizations, most notably the American Boychoir School in Princeton (which does not contest the charges that scores of boys 6th grade and older were abused for decades while at the school) have been using this law to contest liability for the crimes committed by their employees. The Republican-controlled legislature refused to change this law, but at the time of this testimony the legislature was Democratic-controlled. As of this writing, and it looks like there is a good chance that the law will be changed, possibly with a certain amount of retroactivity.

I spoke to the Senate Judiciary Sub-Committee in charge of this bill on Monday, January 26th, 2004, as the only professional. There were also about six other speakers who were survivors of sexual abuse or assault or their loved ones. Their stories were horrific and moving.

This is the text of my comments.

Statement About New Jersey Charitable Immunity Act

Richard Gartner, Ph.D.

I want to thank the Committee for giving me the opportunity to talk to you about the effects of childhood sexual abuse on its victims. I am a psychologist and psychoanalyst in New York City who has been treating men sexually abused as boys since the mid-1980s. I am the Founding Director of the Sexual Abuse Program of the William Alanson White Psychoanalytic Institute in New York City, the Past President of MaleSurvivor: the National Organization against Male Sexual Victimization, and the author of *Betrayed as Boys: Psychodynamic Treatment of Sexually Abused Men*. While I have worked extensively with sexually abused men, much of what I will say applies to female victims of sexual abuse as well.

Most sexually abused children know their victimizers. Sometimes they are abused by family members. But, often abusers are caretakers in positions of power and trust--a priest, or a teacher, or a scout leader, or a babysitter, or a coach, or a camp counselor, or a doctor, nurse, or other health care professional. These victimizers are all acting in loco parentis. Therefore, sexual abuse by one of them is very much like abuse by a parent. Predators like this betray children at a most profound level.

The victims are not chosen at random by their abusers. They are often children who are in some way already vulnerable. They may be weaker than other children, or smaller, or unathletic, or disabled. They may come from

troubled families, be separated from one or both parents, or for some other reason be set apart from their peers. In some cases, their parents are alcoholic, or absent, or physically abusive. Often, they look to other adults in their lives for solace, comfort, healing, advice, and emotional closeness.

A predator has highly developed antennae that can identify a child like this. Then the abuser offers the child the consolation the child yearns for. By the time the victimizer introduces sex into the relationship, the child has been groomed to give whatever the predator desires from him or her in exchange for continuing what has become an important relationship.

This betrayal is an interpersonal experience that has terrible implications for a child's future relationships. The abuser--someone whom the child has believed could be counted on implicitly--has used a power relationship to satisfy his or her own needs without regard to the child's needs. The experience can be a defining one for a young child. So, these children often grow up distrusting people in power, believing they are untrustworthy, malevolent, treacherous, and undependable.

But the problems go beyond relationships with authority figures. Adults abused as children often experience problems in all close relationships. They are often frightened about getting close to others and learn to keep isolated and distant. Among the other common aftereffects of childhood sexual trauma are anxiety, depression, drug and alcohol addiction, prostitution, ragefulness, truancy, poor grades, and even suicidality.

For boys, there are added problems, because they believe, as many of us do, that men are competitive, resilient, self-reliant, independent, and certainly not victims. So, right off the bat they have a dilemma conceptualizing what happened

to them. If a boy thinks of himself as a victim, he may start to believe that he's not really a man. This naturally makes it really hard for him admit to himself that he was victimized. So, he often minimizes the impact of his abuse for as long as possible, often not acknowledging till his late 20s--or more often his 30s or 40s--that he was victimized. I've had men come see me in their 60s who've never told anyone about being abused in boyhood.

Boys who were abused by men have an even harder time because they wonder why they were chosen by a man to be a sexual victim. Like rape, most childhood sexual abuse is more about power and control than about the sexual acts involved. But it doesn't seem that way to the victim, who often thinks he somehow invited what happened to him. This undermines his sense of himself as a sexual person, whether he grows up straight or gay. So, sexual problems of one sort or another are frequent among adults sexually abused as children.

Victims of child sexual abuse are often criticized and demeaned for not having come forward at once, or immediately after becoming legal adults. One reason they don't disclose their abuse is that they do not have any faith that they will be believed. And, in fact, they often are not believed. I've heard of children who were told they were telling dirty lies about a pillar of the community, or, even worse, were blamed for seducing such a person.

In addition, abusers often impose silence as part of the betrayal. They may tell a child that if the abuse comes to light the child will be taken away from home and put in foster care, or that a family member will be hurt or even killed, or that the child will never see the perpetrator again. This is a particularly cruel aspect of the sexual abuse of children: the love and affection a victim unreservedly gave to the predator is used and distorted so that it becomes a tool against the child, who

is afraid that this adult--who has abused the child, but whom the child loves--will be taken away for ever.

So, a victim of child sexual abuse often tries to forget that the abuse ever happened. The child may minimize the effects of the abuse or just put it away in some corner of the mind in order to go on functioning. Sometimes the events are remembered but never thought about, and sometimes they are forgotten for a long time.

There has been a lot of controversy about adults recalling memories of childhood sexual abuse. Occasionally these recovered memories are false, but they are often true. In fact, recently some investigators at Stanford University and the University of Oregon published research in the journal *Science* that confirms that a biological mechanism exists to block unwanted memories.

But when a victim finally does come forward and discloses childhood sexual abuse, the institutions in which the abuse took place have usually stonewalled, denied what happened, disavowed any culpability in it if it did happen, and blocked any means for the victim to come to peace with a traumatic history. We have seen this from churches, schools, athletic organizations, scouting and camping groups, and other charitable institutions trying to protect themselves from consequences of the behavior of people who work for them, whether paid or volunteer. When this happens, the original victim is revictimized and betrayed once again. Not only has the predator hurt him, but the institution in which the abuse took place further victimizes him.

And now we come to the larger institution, the State. When a law like the Charitable Immunity Act protects charitable institutions from culpability in the behavior of those who work in their name and under their auspices, the State

revictimizes these victims yet again.

So, I ask you today to change this law. Right this wrong for the future, and allow the people whose cases are not yet adjudicated to get legal redress for the wrongs that have been done to them. These men and women were abused as children by sexual predators, and then again by the institutions who countenanced the abuse. Please make sure the State of New Jersey does not hurt them yet again by continuing to protect charitable institutions in this way.