



**TESTIMONY IN SUPPORT OF AB 158 BEFORE
THE NEVADA ASSEMBLY JUDICIARY COMMITTEE**

March 6, 2019

Dear Chairman Yeager and Members of the Committee:

Human Rights for Kids respectfully submits this testimony for the official record to express our support for AB 158. We are grateful to Assemblyman John Hambrick for his leadership in introducing this bill and appreciate the Nevada Legislature's willingness to address this important human rights issue concerning the unjust incarceration of children who commit crimes against people who have sexually abused or trafficked them.

Human Rights for Kids is a Washington, D.C.-based non-profit organization dedicated to the promotion and protection of the human rights of children. We work to inform the way the nation understands Adverse Childhood Experiences (ACEs) from a human rights perspective, to better educate the public and policymaker's understanding of the relationship between early childhood trauma and negative life outcomes. We use an integrated, multi-faceted approach which consists of research & public education, coalition building & grassroots mobilization, and policy advocacy & strategic litigation to advance critical human rights on behalf of children in the United States and around the world. Our work consists of: (1) Protecting children from harm; (2) Reforming justice systems to ensure we focus on rehabilitating children who come into conflict with the law; (3) Protecting immigrant, non-native children from harm and discrimination; (4) Promoting access to quality education for all children; and (5) Promoting healthy communities for children to ensure access to housing and health care.

We are survivor-led. Growing up in Las Vegas, Nevada, I was a victim of child labor trafficking and sexual abuse. In 2013, the Nevada Legislature passed AB 146 to recognize what happened to me as a form of human trafficking. We work today to empower child survivors of human rights abuses, to elevate our voices, and to ensure that what happened to us as children never happens again.

Human Rights for Kids supports AB 158 because, if it is signed into law, it will help to end the unjust practice of sentencing child victims of sexual violence and sex trafficking to lengthy prison terms for crimes they commit against their abusers. Instead of locking exploited and abused children away in cages, these children will be treated the way child victims deserve. The

continuing practice of sentencing children who kill the abusers to decades in prison is a human rights abuse and AB 158 will make Nevada the first state in the nation to finally recognize that.

AB 158

The Legislative Findings on page 2 of the bill make clear that “children who are victims of sex trafficking or sexual assault and who commit crimes against their abusers should not be subject to lengthy prison sentences but should instead be treated as victims and receive appropriate treatments and services.”

Section 1 of the bill specifies that if a court finds by “clear and convincing evidence” that during the previous year leading up to the commission of an offense by a child, the person against whom the offense was committed trafficked the child or sexually assaulted the child, the court may: (1) depart from any mandatory minimum sentence, (2) suspend any portion of any otherwise applicable sentence, or (3) transfer the case back down to the juvenile court for adjudication.

The purpose of this bill is give judges more options and greater flexibility when sentencing children who have committed crimes against their abusers.

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. 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 example, to be protected under NRS 200.200 for killing in self-defense, it must appear that: "1. The danger was so urgent and pressing that, in order to save the person's own life, or to prevent the person from receiving great bodily harm, the killing of the other was absolutely necessary AND 2. The person killed was the assailant, or the slayer endeavored to decline further struggle before the mortal blow was given."

For many child victims of sex abuse or trafficking, they are not always in "urgent and pressing danger" under the legal definition when they commit crimes against their abusers. Sometimes these crimes are premeditated on the part of the child victim. 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.

The U.S. Supreme Court

The Supreme Court has emphasized through its cases in *Roper v. Simmons* (2005), *Graham v. Florida* (2010), *Miller v. Alabama* (2012), and *Montgomery v. Louisiana* (2016) that **"the distinctive attributes of youth diminish the penological justifications for imposing the harshest sentences on juvenile offenders, even when they commit terrible crimes."** (Emphasis Added).

The Court has also found that, "only a relatively small proportion of adolescents" who engage in illegal activity "develop entrenched patterns of problem behavior," and "developments in psychology and brain science continue to show fundamental differences between juvenile and adult minds," including "parts of the brain involved in behavior control."

The Courts rulings in this area are especially relevant when dealing with children who have experienced significant trauma and abuse at the hands of the person who they committed their crimes against.

Conclusion

Nelson Mandela once said, "*There is no keener revelation of a society's soul than the way in which it treats its children.*" Children who commit crimes against their abusers are categorically different than other types of offenders in the criminal justice system. Today we ask that you recognize these children as victims and give judges the flexibility to fashion an outcome that is more just and compassionate. These children deserve better. And we owe it to them to be better.

Child victims deserve our understanding, empathy, and love. They don't deserve to be demonized and thrown away by the justice system.

As you consider this measure, I'd like you to ask yourself what if Ms. Kruzan was your own daughter? What would you want done in cases like hers?

Today we ask you to set a new standard and to protect the most vulnerable children in Nevada. We've failed these children too many times. Lets not fail again. You can make sure that we don't. Pass AB 158 and send an unmistakable message to child victims everywhere:

“We See You. We Hear You. We Will Protect You. And We Love You.”

We strongly urge this committee to vote favorably upon AB 158 to give judges greater flexibility in cases where child victims commit crimes against their abusers and are urged to treat them as the victims they are. Thank you for your consideration.

With hope and love,



James. L. Dold
President & Founder
Human Rights for Kids

Below we've included a small sampling of stories from around the country of children who committed crimes against their abusers and traffickers. We hope their voices and stories illuminate the pressing need for AB 158. Our work is dedicated to them and we ask that you pass this measure in their honor.

LAS VEGAS REVIEW-JOURNAL



COMMENTARY: Legislature will consider measure to help, not punish, kids who are exploited



By Sara Kruzan Special to the Review-Journal

February 23, 2019 - 9:00 pm

When I was 17 years old, I was sentenced to die in prison for killing the man who had been trafficking me for more than five years. I was only 11 years old when the man who exploited me began to groom me for the underage selling of a child within the dark shadows of our communities.

Yet, during my trial, the abuse and complex trauma I experienced throughout my childhood was not admitted into evidence. I was not allowed to speak of it.

The “justice” system sentenced me — a child sex trafficking and rape survivor — to life in prison without parole, plus four years, for killing the man who stole my childhood and victimized me for nearly a third of my young life.

Because of the tireless work of my legal team and community advocates, my sentence was commuted and reduced. On Oct. 31, 2013, I was paroled from Central California Women’s

Facility in Chowchilla after serving 19 years and seven months. Despite having been free for more than five years now, my heart continues to ache at the injustice of locking up child victims of sex trafficking and sexual abuse who commit crimes against those who have abused and exploited them.

What happened to me was not justice. What happened to Cyntoia Brown, despite her sentence being commuted recently by Gov. Bill Haslam of Tennessee, was not justice. And what has happened to Alexis Martin, another child sex trafficking victim currently serving a life sentence for participating in a crime that resulted in her trafficker's death, is not justice. None of us should have been sent to prison in the first place — a far too common response for girls of color in our country — especially for actions they take against their rapists and traffickers.

Being silenced, sexually assaulted, raped, trafficked and degraded creates deep wounds, especially for children. Every day, these wounds require courage, grace and an undefined strength to overcome. Imagine if Cyntoia, Alexis or I were your own daughter. How might you respond to the vile men who exploited and abused us? Is it so difficult to understand, then, how a 16-year-old girl who was raped and abused and exploited from the time she left elementary school would end up killing the man who harmed her so? What should we do with her?

Our answer to this question says a lot more about us than it does about her.

When I was silenced, I felt invisible. I felt my voice and life experiences held no value and that I, as a person, had no value. It was only my act of violence that seemed to matter to the justice system, not what led up to it or what the person I had harmed had done to me. Instead, I was labeled a “child prostitute,” a “murderer,” a “convicted teen killer” and a “teen prostitute who killed her pimp.” I was left to die in a cage after being told by a judge that I lacked “moral scruples.”

Nelson Mandela once said, “There is no keener revelation of a society's soul than the way in which it treats its children.” What does it say about our soul if we allow our children who have been abused, raped and exploited to be sentenced to decades in prison for having committed crimes against their abusers, rapists and exploiters?

I have been working alongside the survivor-led nonprofit organization Human Rights for Kids on a policy solution to make sure that what happened to Cyntoia, Alexis and I never happens again. Under our proposal, judges will be given greater flexibility in cases like ours and urged to keep us in the juvenile or child welfare system to provide us with services and care rather than keeping us in cages and silenced. Girls like us deserve to be protected by the system, not traumatized by it. Sara's Law, as we are calling it, will make sure that happens.

Sara's Law has been introduced in Nevada as Assembly Bill 158 by Assemblyman John Hambrick, R-Las Vegas, so that none of Nevada's children has to suffer as I and so many other sex trafficked, exploited and abused children have had to.

Let's not allow the justice system to take anything else away from child sex trafficking and sexual abuse victims. We've been forced to give away too much already. Let's do better so that the next Cyntoia Brown, Alexis Martin or Sara Kruzan is met with empathy, compassion, understanding and love.

The Boy Who Killed His Molester



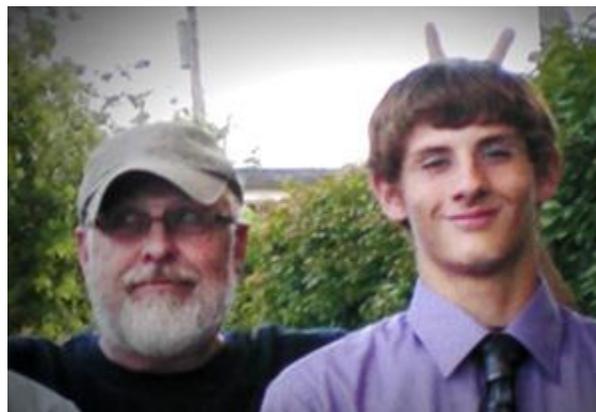
Published 10/18/2010

January 22, 2010, started off as a typical Friday for 16-year-old [Daniel Kovarbasich](#). That morning, his father drove his mother to work, dropping off Daniel at the home of close family friend Duane Hurley, who was supposed to take Daniel to school.

Thirty minutes later, Duane was dead. Daniel had stabbed him 55 times.

Immediately after the stabbing, Daniel frantically called his father, Terry. Terry raced to meet Daniel and found him standing on the street, his hands caked in blood. Inside the house, the scene was gruesome. Duane lay lifeless at the top of the stairs with blood splattered across his body, floor and walls.

Daniel claimed that Duane had attacked him, but that wasn't true. The real story would unfold over the next several months, revealing a horrifying secret: Daniel alleged that Duane had been grooming and sexually abusing him for more than three years—and no one had a clue.



Daniel was 12 when 52-year-old Duane Hurley first approached him outside a local elementary school. Daniel was charmed by Duane's dog, and when Duane returned a few days later asking if Daniel would watch the dog for a moment, he agreed. Five minutes later, Daniel says Duane returned and paid him \$30 for his help.

This was the start of the "grooming process," a calculated behavior that helps child molesters gain the trust of potential victims and, oftentimes, victims' families.

Initially, Daniel and his parents, Terry and Donna, were suspicious. "We got the information off the dog tag to go look [Duane] up online to see if he was a sex offender," Daniel says. "We didn't find anything."

So, when Duane began inviting Daniel over to his house to do odd jobs for money, his parents agreed—but they went to Duane's house with their son. "Duane welcomed us into his home and seemed very genuine," Terry says.

For the next year, both Terry and Donna accompanied Daniel on his visits to Duane's home. Over time, they began to treat Duane like part of the family. That's when things allegedly took a very dark turn.



Unbeknownst to the Kovarbasichs, Duane was skillfully grooming Daniel, as well as his parents.

"He'd buy me stuff," Donna says. "I'd say that I'm out of laundry detergent and have to wait until I get paid to get detergent. He would go out and buy detergent and bring it to me. I mean, he was a great guy. Who wouldn't like someone like this?"

Once the family was comfortable with him, Duane moved on to the next stage of the grooming process: lowering Daniel's inhibitions.

"He'd say stuff like, 'How many different ways can you say the word 'penis?'" Daniel says. "[And] while I'd be using the bathroom, he'd walk by and open the door. He would also pee with the door open."

That's not all Duane did. He also let Daniel—who was too young to get a license—drive his sedan. To get the keys, Daniel says Duane asked him to expose his genitals. Then Daniel says Duane wanted to touch his penis. "After the touching," Daniel says, "I wanted to drive the Corvette. He [said], 'Bigger toys, bigger things.'"



After hearing about his sexual encounters with Duane, Oprah asks Daniel why he kept going back.

"I felt like I had to. Like I couldn't get away from him," Daniel says. "It was like it was my fault. I was the one who showed him my genitals, which started it, and he kept using that against me. ... If I didn't [go over to Duane's house], he'd come find me. If I tell him no, then he was going to say something."

Duane continued to sexually abuse Daniel, even though the teen says he told Duane to stop. Then, the abuse began to escalate.

Two weeks before he murdered Duane, Daniel fell asleep on Duane's couch. "He anally penetrated me that night," Daniel says. "I acted like I didn't know."

That's when Daniel says the rage and hate started to surface.



The last straw for Daniel came just before the murder, around the time he was planning a romantic anniversary celebration with his girlfriend. Duane saw another opportunity to seduce his young victim.

That Friday when Daniel came over to Duane's house before school, the two talked about the upcoming anniversary. "So all this [anniversary] stuff's going to cost...what?" Daniel says Duane asked.

"\$80," Daniel answered.

Then, Daniel says Duane responded. "You know this stuff isn't free, right?"

Daniel says he knew Duane wanted to have sex, and at that moment, he realized that the molestation was not going to stop.

"I just snapped," he says.



After Daniel snapped, he says he walked over to Duane picked up a nearby pickle jar and smashed him in the head. Then, he admits to stabbing Duane 55 times.

"Did you realize you had stabbed him that many times?" Oprah asks.

"No," Daniel says. "I had no idea."

A judge found Daniel guilty of voluntary manslaughter and aggravated assault. He was sentenced to five years probation and was ordered to stay in jail until the court finds him a therapy-based treatment facility.

At the sentencing, the judge read a quote from forensic psychologist Dr. Michael Welner: "A skillful groomer, 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."

Daniel could have spent a minimum of 15 years in prison if convicted of the original charge—murder. There are some people who feel the judge went too easy on the teen, but Daniel feels differently.

"Do you feel that the sentence was fair?" Oprah asks.

"I feel it was fair," Daniel says.



When Daniel finally came forward and accused Duane of molesting him, his parents were devastated.

"I was shocked that someone could get past my radar like that," Terry says. "And I was angry that this person deceived my whole family. He literally just took our innocence away."

"I was very upset," Donna says. "In my head, [Duane] was such a nice person, but he knew what he was doing."

Oprah asks Daniel what he'd say to other abused children who are feeling the same shame, guilt and rage that he felt. "You need to come out and say something, because it's not your fault," Daniel says. "No one is going to blame you. Man up."

Terry also has advice for children. "When anybody is giving you stuff that your parents don't want you to have and you think: 'Hey, this person's cool. He's giving me alcohol. He's letting me drive his car. He's the cool guy. My parents suck,' listen. Something's wrong."

Read more: <http://www.oprah.com/oprahshow/the-16-year-old-boy-who-killed-his-molester/all#ixzz5hDRQyl2r>

Should 'forced sex slave' get a break in her pimp's death?

Man was killed during robbery 5 years ago

Posted: 12:23 PM, May 06, 2018

Updated: 12:23 PM, May 06, 2018

By: Andrew Welsh-Huggins | Associated Press



COLUMBUS, Ohio -- No one disputes that a 15-year-old Ohio girl involved in the slaying of a man during a robbery five years ago was at one time, in the words of the state's Supreme Court chief justice, "a forced sex slave." What is up for debate before the Ohio Supreme Court is the impact of the girl's prostitution on her role in that killing.

The defendant, Alexis Martin, and her attorney argue that a juvenile judge made a mistake when Martin's history of sex trafficking wasn't adequately explored at a hearing that determined whether the girl should be charged as an adult.

The Associated Press doesn't normally identify victims of sexual assault or juveniles charged with crimes. In this case, Martin has been frequently identified in the media and court documents and doesn't have a problem with being named, her attorney said.

Investigators say Martin and a female friend came up with the robbery plan with two other men. The victims were Martin's pimp and his brother. The girls were having sex with the victims to distract them when the robbers entered a house and the victims were shot, according to court documents. Martin is not accused of firing a gun.

Martin's lawyer, Jennifer Kinsley, says the juvenile court judge should have determined that Martin was covered by a 2012 Ohio law that protects children whose crimes are related to their status as trafficking victims.

Had the judge determined that the so-called Safe Harbor law applied, a court-appointed guardian for the girl could have been named, and that person could have investigated the full extent of the girl's history of prostitution, Kinsley says.

There were plenty of warning signs, including the girl's call to a probation officer when she was 14, saying she'd been kidnapped and taken to Cincinnati and forced to perform exotic dances, Kinsley told justices this year.

The girl "is a crime victim. She was being raped and sold for sex," she said.

Ultimately, the judge determined the girl could not be rehabilitated in the juvenile court system and transferred her to adult court, where she pleaded guilty to murder and other charges. Now 19, she's serving 21 years to life.

Kinsley wants the Supreme Court to order the case back to juvenile court.

The Summit County prosecutor's office is challenging the girl's appeal, saying her activity the day of the robbery is separate from her history as a prostitute.

Neither Martin nor her attorney at the time raised the Safe Harbor law, and Martin's case was properly moved to adult court because of the seriousness of the crime and questions about whether Martin could be properly rehabilitated at the juvenile level, according to Richard Raley, a Summit County assistant prosecutor.

During oral arguments in January, Chief Justice Maureen O'Connor asked Raley to clarify the status of Martin's sexual activity before the crime and the day of.

"She was having sex with one of these men, at the time of the robbery, and that was separate and distinct from her activity of being a forced sex slave?" O'Connor said. Raley said that was the case from the state's perspective.

A court decision isn't expected for weeks.

Several organizations fighting human trafficking have asked the court to side with Martin, including Case Western Reserve University's Human Trafficking Law Clinic; the Ohio State law school's Justice for Children Project; and the Washington, D.C.-based Human Trafficking Pro Bono Legal Center.