

## ARE CHILD ABUSE LAWS IN AMERICA ENFORCED? *The American Bar Association Reports Child Predator Protections*

In 1990, the American Bar Association referred to the handling of child sex abuse offenders as a "continuing theoretical debate."<sup>1</sup> They report that according to a 1987 ABA study, over four-fifths of child sex abuse offenders are sentenced to probation, with the most common condition being that the offender receive "treatment for his sexual orientation to children."<sup>2</sup>

Admitted in the Introduction of the report, little consensus exists about what type of treatment works best; nor do any standards exist concerning type of treatment or administration. Regarding prosecution, there were "mixed opinions" about whether incest should be treated less punitively than other child abuse. There was "considerable consensus...that most child sexual abuse cases terminated with negotiated outcomes rather than trials."<sup>3</sup> In terms of sentencing, "the preparer of the pre-sentence report yielded considerable power in determining the fate of the defendant..., and most offenders were sentenced to probation conditioned on ...treatment for the offender's sexual orientation to children."<sup>4</sup>

Unfortunately, the study points out, there is a lack of treatment alternatives, and long waiting lists for programs. None of the sites studied had written standards for treatment, or any qualifications for the therapist, and many programs would not accept offenders without payment.<sup>5</sup> "Officials were quick to point out that these probationers pose serious potential harm for one compelling reason: their sexual orientation to children usually includes a long, pervasive and active history which is extremely difficult to change."<sup>6</sup> "The primary reason given [for specialized supervision] was that these offenders are especially likely to re-offend and pose such a potential danger to children that extraordinary monitoring and supervision is appropriate."<sup>7</sup>

The study lamented the lack of monitoring by both probation officers and therapists. "[T]reatment providers need probation officers to respond quickly and seriously to any reports of the offender's failure to either attend or progress...probation officers need to be kept informed in a timely manner when the offender is not attending treatment."<sup>8</sup> Furthermore there are "usually no standards to guide them [judges] in selecting from among available out-patient programs."<sup>9</sup> "Standards should be developed...These standards are best developed by criminal justice officials and treatment providers working as a team. Judges and probation officers who are responsible for recommending specific treatment providers/approaches should be given training to help them select the most appropriate options for individual offenders."<sup>10</sup>

"Most practitioners interviewed...worried that abusers were re-offending without being detected, and there were even more concerned that abusers were refraining from sex with children only because they were being 'watched' and would regress once probation was terminated. More careful monitoring may help alleviate the first concern. The second point is moot in a due process system of justice."<sup>11</sup>

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<sup>1</sup> American Bar Association. 1990. The Probation Response to Child Sexual Abuse Offenders: How Is It Working? Executive Summary. State Justice Institute, Grant, SJI-88-11J-E-015, p. 1.

<sup>2</sup> Id.

<sup>3</sup> Id., p. 6.

<sup>4</sup> Id., p. 7

<sup>5</sup> Id., p. 8.

<sup>6</sup> Id., p. 9

<sup>7</sup> Id., p. 10

<sup>8</sup> Id.

<sup>9</sup> Id., p. 11

<sup>10</sup> Id., p. 12

<sup>11</sup> Id.

In recommending research, the study suggested that probation and therapists keep statistics on the number of probationers who are successful and unsuccessful. There should be mental health research on child sexual abuse offenders. "Officials raised many disturbing doubts about whether it is indeed possible to change a person's sexual orientation and behavior towards a child and about the long-term prognosis for reunifying offenders with their families...justice officials frankly admitted that offenders are being sent to one type of treatment versus another without benefit of any hard evidence to indicate which option might be better."<sup>12</sup>

### **Conclusions**

This study by the prestigious American Bar Association identifies the sorry plight of children in light of a justice system which has abandoned its role. In spite of the complete failure of the system, it asks tax payers to support a program with the following track record.

1. Over 4/5 of child abusers serve NO time for crime.
2. Corrections Practitioners deny any value in therapy for child abusers.
3. Treatment programs, popularized for over 30 years, still provide no data whatsoever to show any benefit, improvement or cure.
4. There are no standards to define what treatment should be or who is best provider.
5. Corrections Practitioners strongly affirm that child abusers are confirmed in their behavior and remain a continuing threat to children.
6. Presentencing therapeutic evaluation of child abusers has usurped the authority of judges.
7. The only solution is more time and more therapy perpetuating therapy's failed experiment at great risk to our nation's children.
8. The academic and legal elites in their "theoretical debate" have lost touch with the reality that skyrocketing child abuse statistics represent defenseless children abandoned by an unresponsive legal system.
9. Under the common law it was not a "moot point," as it is under the ALI Model Penal Code, that child abusers were likely to re-offend and be apprehended within a few years.
10. Low crime rates were statistically documented in the 50's for child rape and abuse, when there were strong penalties (from death to a minimum of decades).



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*Restoring Social Virtue & Purity to America* **Recommendations**

- Restore the common law:
- Death penalty for rape of a child, with mandatory imprisonment for all child abuse felonies.
- All child abuse should be prosecuted as charged, without plea bargaining options.
- All therapy without hard data to prove its success cannot be supported by tax dollars; thus current programs must be de-funded.
- A jury of peers and a presiding judge should decide the guilt or innocence and sentence for the offender.

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<sup>12</sup> Id., p. 13.