

Military OneSource Podcast — Legal Aspects Concerning the Sexual Behavior of Youth

Child & Youth Advocacy

Episode transcript

Intro voiceover:

Welcome to the Military OneSource Podcast. Military OneSource is an official program of the Defense Department. With tools, information and resources to help families navigate all aspects of military life. For more information, visit militaryonesource.mil.

Bruce Moody:

Welcome to the podcast. I'm Bruce Moody. Even though parents would love for this not to be true, we know that many teenagers will engage in sexual behaviors. As parents are guiding and helping their children to develop healthy relationships, we think it's important for parents to be aware of children's sexual behavior and the law. And so for today's discussion, we're going to bring in our guest today. He is Dr. Paul Shawler. Dr. Shawler, welcome to the podcast.

Paul Shawler:

Thanks, Bruce. It's great to be with you this morning.

Bruce Moody:

Yeah, it's good to be with you. Good topic. Let's get into it. First, let's get into it by learning a little bit more about you and what you bring to the discussion.

Paul Shawler:

Absolutely. So again, my name is Paul Shawler. I'm a licensed clinical psychologist, so I see kids and families all day, every day, and also have the privilege of being a trainer and consultant with the National Center on the Sexual Behavior of Youth.

After leaving Oklahoma, I moved to southern Illinois. But when I was in Oklahoma, I had the great privilege to be the chief psychologist for Oklahoma's juvenile justice agency.

Bruce Moody:

Good, good. So you're the right person for this conversation. I think what we're going to do here is give parents a sense of what's out there legally speaking. Regarding problematic sexual behavior, is there an age when it becomes a legal issue, such as the age of adjudication?

Paul Shawler:

Great question, Bruce. So again, as your opener kind of indicated, no parents ever want to be in these shoes to think about their kids engaging in a sexual behavior that could be considered breaking a law.

And one of the things that is unique is that many families don't enter and know much about the juvenile justice agency in which they live ... the jurisdiction. And the thing that is complicated is every state has their own system, including if you're on a military installation, looking at federal law and federal court.

And so there's a nice movement in juvenile justice to try and keep kids out of that system and treat them on the frontline. And so juvenile justice agencies are trying to catch up and do what is best for kids.

And so unfortunately, only about half the states in the U.S. have a minimum age of adjudication, meaning that six- and eight-year-olds could technically be arrested and go through the process of the juvenile justice system.

And even the term like adjudication may be unfamiliar to many listeners. And so the term adjudication is simply saying that your child has done this, and it breaks the statutory law and requirement.

And so typically speaking, when we look at kids who are entering the juvenile justice system, again, depending on what state you look in, many states are looking to move to 12 to 14 years of age. But many states still fall below that cutoff, and many start at the age of 10.

Bruce Moody:

What type of prevention-based conversations should parents be having with their children regarding problematic sexual behaviors?

Paul Shawler:

So many times, families assume that kids know what is OK versus not OK. We assume that many times, kids have a greater understanding of what is legal versus illegal. And oftentimes, we miss this window of preventative-based conversations.

And so these conversations should really start early on in the child's life, talking about what are healthy boundaries, understanding when to be clothed and when it's OK to not wear our clothes, understanding what types of words are appropriate and how we're interacting with

others. And as kids grow and they develop, we're really starting the concept of what makes healthy relationships.

And so early on in life, we're certainly talking about what makes somebody a good friend. And as they start to go through the early puberty years, we really need to start fostering greater conversations about what makes a healthy relationship. And not only that, but how do we use technology in a manner that is appropriate?

And so many times, kids come to the attention of law enforcement. In fact, the peak age of kids coming to the attention of law enforcement for problematic sexual behavior are 12 to 14.

And so during these years when hormones start to rage, kids are doing things that are impulsive. They're not thinking about their actions. Many of these behaviors look like a kid walking in a hallway and slapping someone on their buttocks, or pinching somebody's breast, or looking at pornography on the school bus, or taking a picture of themselves on their cell phones and sending it to one of their classmates. And so many times, kids have these behaviors, and they're not thinking about it.

And so this is the idea of: Can we help kids think about things before they get into these situations? And so parents have enormous opportunities to have these conversations early and often around what is consent, what are the things around that. And so Bruce, I'm curious what your follow-up would be, but that's my opener.

Bruce Moody:

So what are some of the more common factors that may trigger police involvement?

Paul Shawler:

So police involvement can come around for many different types of behaviors. So what police are looking for, is really: Are they breaking these current statutes that exist within their current jurisdiction? And what are the age factors that may be implicated around the behaviors which they're investigating? And so occasionally, school systems may get involved when there's a case of child abuse and neglect. And so they're going through and saying: Who might be culpable or responsible for these types of behaviors? And then certainly, depending on the nature of the sexual behavior, it could be reported from many different sources, whether it be the school, the family themselves, or the impacted family that may make a phone call saying, "My child was potentially harmed and I want to make sure that I'm doing the right thing."

Bruce Moody:

So we are doing this whole podcast series for military families. Military families move a lot. So knowing that things vary from state to state is such an important thing to get into.

So when we're talking about triggering law enforcement, does it vary from state to state? And if so, what is the average age that law enforcement, and maybe the juvenile systems, will get involved?

Paul Shawler:

As you kind of indicated in the opening, this is a very complex topic. So understanding when law enforcement is going to get involved can vary tremendously, and that can vary tremendously based on the city, or state or whether a behavior may take place on a military installation or off installation, and what agreements folks have.

And so typically, when we're talking about law enforcement investigations for kids with problematic sexual behavior, it's typically looking at the minimum age of 10. Kids under 10 are very unlikely to have some form of formal kind of processing.

However, when a sexual behavior, or a problematic or a harmful sexual behavior occurs, it is very common for law enforcement to also serve multiple different roles. And so oftentimes, they're part of a multidisciplinary team, where children who have been impacted, and sometimes, the exhibiting child who has a problematic sexual behavior will come in for a forensic interview. In some jurisdictions, law enforcements complete those forensic interviews on the children to learn what has happened. In other jurisdictions, they capitalize on the children's advocacy center and trying to understand what all behaviors have taken place, what were the circumstances of which they have arisen. Even though juvenile justice may not get involved until 10, 11, 12 or 14, law enforcement still plays a vital role in being a first responder for many families that are indicating that yes, a problematic sexual behavior has occurred.

Bruce Moody:

There's a definition that I want to just nail down here, because you're talking about states, but you're also talking about jurisdictions. Are these different when we're talking about problematic sexual behaviors and legalities?

Paul Shawler:

That's a great question, Bruce. So when I talk about jurisdictions, it is different than state statutes. So every state has their own juvenile code that is going to indicate what are the specific laws that govern that particular state. But who is responsible for providing the enforcement and the court system to say whether behaviors did or did not occur is a jurisdictional manner.

And so when you look at jurisdictions, you have municipal city level jurisdictions and then you have county-based jurisdictions. And then again, if it's a certain crime, occasionally it will trigger a federal based response. And so we're really saying: Who is the responsible law enforcement party that should be involved in different cases?

So a common example that tends to come up is a sexual behavior occurred in let's say Smith County, but the family resides in let's say Jackson County. Since the behavior occurred in Smith County, that would be the local law enforcement agency that would be responsible for responding, since that's where the alleged offense or behavior took place. And so it wouldn't be your local folks, even though your home of residence may be, again, in Jackson County.

Bruce Moody:

All right, appreciate that distinction there. Let's turn a corner a little bit. You're a psychologist and you work with youth. You see their reactions to being brought in to these systems. What is a youth's typical reaction, in your view, when a juvenile system becomes involved?

Paul Shawler:

So there can be a wide variety of reactions that youth undergo. And I think that this is particularly relevant not only for families but other professionals working with different individuals who are accused of engaging in a problematic or harmful or illegal sexual behavior.

And so when kids come in, oftentimes the first instinct is for kids to say, "No, I didn't do this." And oftentimes, kids are not wanting to get in serious trouble, and they have a hard time understanding what are the ramifications of their actions, how do they respond.

And so there can be a very mixed response from completely open, coming forward. Maybe their parents have had conversations with them about the importance of being honest. And then other kids will close down, shut down, be highly emotional. And then others will present very stoically.

And so I wouldn't say that there's a catchall in regards to how kids come through. And what I would emphasize is that it's often based on how the systems are set up, what communication has happened, have parents talked to legal counsel. And those are some of the issues that I hope that we're going to get into as we move forward this morning.

Bruce Moody:

Yeah, we definitely will. Do kids generally know that their behavior may result in legal involvement?

Paul Shawler:

So I've been doing this work for over a decade now. And one of the common things ... So just to give a little bit of context for the listeners, typically by the time we are working with youth in treatment, decisions have been made already about whether a case is going to move forward in the juvenile justice system or what court-based decisions have taken place. Occasionally they say, "Hey, if families go, they engage in treatment, we won't take this matter any further when it comes to the juvenile justice system."

But a common theme related back to your question is kids come in and they say, "I knew what I did was wrong. I knew it was not OK. But I had no idea the levels, and the complexities and all of the different pieces that would come together as a result of my choices to engage in these types of behaviors." Many kids do not realize the ramifications of their actions and are not thinking long term about what these behaviors may do in the short term or long term, either for themselves or for others.

Bruce Moody:

You raise a really interesting point. I think the level and the complexities, the kids don't see it. I imagine even the parents are probably really wondering about the levels and complexity of what's going on. So is there a legal person who stays involved throughout the process, if an adolescent is charged in the civilian sector?

Paul Shawler:

So once a charge is brought, which basically means that a local prosecutor has agreed to take this action into court, typically what happens — and again, this can vary by jurisdiction — but the kids and the families are requested to come in for a sit-down interview, and eventually, they come in contact with a juvenile justice service worker who's designed to be a case manager — and in many jurisdictions, a support for youth as they go throughout this process. One of the unique things that's happened across the U.S. really over the last 20 years is understanding the difference between adult based court and the nature of juvenile justice.

And so juvenile justice was actually founded in 1899 in Chicago. And the premise was: We need to treat youth, and adolescents and children different than adults. They are not mini-adults. And so the concept of juvenile justice has really centered around this idea of rehabilitation.

And so many jurisdictions have ebbed and flowed. And in the 1990s, there were several policies and laws that were enacted, that made juvenile justice more tough on crime. And since that time period, with the research and the latest evidence on how do we prevent future crime, what we've learned is that a rehabilitative network and a support system for youth, as well as families, to ensure that they have the tools to grow up into healthy adults is most effective.

And so at the beginning of cases, after a charge is brought, oftentimes there will be a case manager, and then the advice for families is always to ensure that they are seeking legal counsel, given the potential implications of their child's decisions that they've made.

Bruce Moody:

So once they've sought that legal counsel, what are the conversations that parents should have with an attorney regarding legal protections?

Paul Shawler:

Another really good question. And just a caveat for the podcast listeners, again, I'm not an attorney. I'm not giving legal advice. But some generalities for cases that involve illegal sexual behavior when you're talking about the juvenile justice system is making sure that the attorney has a good understanding of how the juvenile justice system works. Do they currently work in juvenile court, and do they understand how to best navigate the system in which they're working? Do they have the relationship with the local juvenile justice agency, with what many jurisdictions call your juvenile justice probation officers? Really ensuring that they have a good understanding of that particular system, because this is a different kind of court. Juvenile justice is an island, and making sure the attorney has the understanding of the juvenile statutes and the

juvenile court system and the proceedings is certainly advocated for families when seeking legal counsel.

Bruce Moody:

What is the expected timeline when a child is charged to when there is a ruling? What is the order of events that parents can expect to happen?

Paul Shawler:

Again, depending on jurisdiction ... And there's federal laws that can dictate a system-based response. And so we haven't really talked a lot about what can happen after law enforcement gets involved.

In some cases, law enforcement can show up at school, at the parent's home. They can place a child in handcuffs and take them to a juvenile detention facility. Or they can come say, "Hey, this behavior is being alleged to have occurred. And given the nature of these things, you need to seek legal counsel. We invite you to come in for an interview." And then you have a court hearing or an appearance that is basically looking at: Will the case move forward based on what is presented by the prosecution?

If your child is detained and placed in a juvenile justice facility, typically there is a review hearing within 24 hours to determine whether future detainment is necessary, or whether a youth can return back to the residence with a future court date for what the next steps will be.

Again, this is a very complicated matter. And again, there's not necessarily a one-size-fits-all response. And again, all of the confusion that comes about, even for professionals working in this field, understanding what the families have gone through, where they're currently at, what they're trying to do. Again, it can lead to a lot of confusion for families and a lot of confusion for the kids who are in the middle of this trying to sort out. And again, at the point of charge, they are not yet found guilty, because again, that has to be proven in the court of law.

And so when we talk about guilt, that basically means they're adjudicated, that yes, this behavior happened. And this is just going to get way too in the weeds, but there's a lot of different pleadings that can come forth. And so I don't think it's worth going through different pleadings that youth can enter, whether it's a no contest. And there's all kinds of other legal terms that, again, attorneys tend to guide their families through when it comes to the court proceedings.

Bruce Moody:

Yeah, there's a lot in this space. It gets very, very dense. We've got several links in the podcast notes, links to more information, links to other podcasts that we've done where people can get more information. But I do think this is a great overview of information. A few more questions on this. How do clinical treatments differ from legal counsel?

Paul Shawler:

Just real quick, going back to your previous questions to fill in one more gap, is that if a youth is charged with one of these offenses and the juvenile system does get involved, it can significantly slow down the link between accessing clinical care, understanding the outcome of cases. And oftentimes, court cases, in particular, when they're more complex, and depending on the attorney's advice to their client, some of these cases can extend in the court system for six to 12 or even more months before a determination is made.

And so during this time period, it often leaves families in limbo, because one of the things that many attorneys advise their clients to do is to not go and seek treatment where you're talking about the alleged behaviors that may or may not have taken place. Because the fear is that a youth or a family would come in and they would self-incriminate within the treatment process.

So circling back to this idea, how does legal counsel differ than clinical guidance, is they're two different purposes completely. Legal counsel is there to protect the client within the status of the current laws and to give their client the best opportunity to have the best outcome within the court-based system.

Whereas clinical treatment, you wouldn't treat a child who didn't engage in a behavior clinically. You could do a lot of prevention work. We could talk a lot about, "How do we make sure we never put ourselves in a position again for someone to accuse us of engaging in some kind of problematic or illegal sexual behavior?"

There's lots of prevention work that can be done. But once things are in the open, and the concept of treatment is to have kids identify when they've made poor choices. How do we learn from that? How do we help ensure that these things don't happen again? And so it's easy to see how this gets conflicted with attorney's advice versus clinical treatment.

Bruce Moody:

Yeah. Just one more question on this particular item here. What kind of mixed messages might a youth receive during treatment versus from an attorney?

Paul Shawler:

And so going back to that timeline again — where kids can be in the court process sometimes for six, 12, more months — they're meeting with their attorney typically on a semi-regular basis, and their attorney is reminding them of what they need to currently be doing based on the court proceeding.

And so that attorney may be giving advice around, "It is really important that you don't say that these things happened. That if somebody asks you, you say, 'I decline to answer.'"

And so in treatment, again, oftentimes we are trying to unpack and talk about treatment being a safe place to grow, learn and mature past harmful things that may have happened in the past,

and that this is an OK place to learn and to grow and to share things that you would never want to share.

And so when we talk about families coming into treatment, again, imagine that the police have shown up on your doorstep. That in some jurisdictions if you're over a certain age, they can release your child's picture in a newspaper. And then all of a sudden, your religious community finds out. And many families feel very ostracized and that this is very taboo. And now, we're inviting them into treatment, sharing that they're not alone, that many families go through these experiences.

But it can be very traumatic, the process in and of itself. And so that doesn't discount the potential harm that was done through the behavior. But the family going through the process has their own trauma in regards to how they're coping, responding and hopefully getting to a place of healing, growing and maturing as they enter the treatment space.

Bruce Moody:

Where I'm going with this as far as a follow-up is concerned, is these are tough conversations for parents to have. Any help that is available to them is I think going to be appreciated. So for example, popular television shows. How can parents use a popular television show that may be geared toward teens to help with these conversations?

Paul Shawler:

Families every day are interacting with their kids, and they're having multiple conversations about a variety of topics. One of the best ways for parents to ease into a lot of these conversations is to not talk about their child directly, to not say, "You need to do this," or, "Hey, here, let me judge something that you did." And the child would take that as a criticism. But it's to take things in their everyday environment.

And so if they're watching television, and one of the teenage shows that's on shows a couple that goes out and involves a drug, or they engage in sexting-like behavior, it's to take advantage of that and to simply ask, "What do you think about that behavior? What are things that you see or hear going on in your school? Are you OK if I share some things that I think are really important for you to know and learn?"

And taking advantage, whether it be when you're out at the park and you're seeing different people interact, or you're taking advantage of these television shows, or even some of the latest events that come across in media when it comes to adult behavior involving sexual attitudes or sexual experiences, taking advantage of those and say, "I never want this to happen to you. I think it would be really nice to have a conversation of: What are some things to keep in mind? That way, you never come to making these poor decisions. And I really believe that you know what's best."

And these little ounces of prevention I think have enormous weight, because after the fact, it's oftentimes too late for parents to give their kids that advice. And you don't want to be in those

parents' shoes saying, "I know that I could have prevented this, and I really wish that I would've taken advantage of these opportunities that come across in our everyday lives."

Bruce Moody:

So these conversations, how might these conversations change once a teen enters a relationship?

Paul Shawler:

So talking about early child development and growing into the teenage years, again, is one of the most important conversations. And as I said earlier, it's never too early to start these conversations. And so hopefully, as kids were little, we've had conversations about abuse-prevention skills, teaching when it's not OK for somebody to look or touch somebody else's private parts. Hopefully we're teaching them appropriate names of what their private parts are.

And as kids grow up, and every family has different morals and values ... And it's not a clinician's job to teach what a family's morals and values are, but it's to help guide that youth into understanding and hearing from their caregivers.

But as teens, whether families agree with middle school dating or throughout the high school years, is thinking about: How do we tell our kids what is OK for them to do? What's OK within reason? And what are the things that are absolutely not OK based on whatever the family's morals and values are?

Oftentimes, parents think that their child understands their different rules, but oftentimes kids need those things laid out, and it needs to be an ongoing discussion. And if we can have this early on in kids' lives, it helps open doors so that when things happen, our teenagers want to come to us for advice and aren't necessarily afraid of our response.

And that's a hard balance for many parents to master with teenagers when teenagers are starting to want to rebel against the family or do what they think, and they don't want to listen to us anymore. And so I think really, those early conversations and having ongoing conversations around what are the rules and expectations.

And it can be as simple as, "Here are the behaviors that are OK for someone to do your age. When you're 16, these behaviors and rules may change. If you're going to do these behaviors, I still want to know about them. And you're never in trouble for doing something and coming to me for advice." Because we want kids to come to us.

Bruce Moody:

You mentioned the importance of the conversation, and we've done a number of podcast episodes with your colleagues on this topic. And one of the podcasts that I want to link to in the program notes is called The Words We Use Matter. And this might be a very helpful podcast episode for parents to help them choose their words, because words can have a devastating

impact when they land in a youth's ear. But my last question talking about the work that you do, what's the success rate for children and youth who enter treatment?

Paul Shawler:

Taking a step back to answer that question, we've spent a lot of time talking about the initial aftermath that kids and that parents go through when they find out that their child may have engaged in a problematic or harmful behavior.

Parents are going to question significantly what they did wrong, and they may turn and think that there's something internally wrong, and that their children may grow up to be an adult who harmfully sexually offends. And one of the key messages in this work that we do is that treatment matters and treatment works.

So kids that have made poor choices involving their sexual behavior, after completing treatment, 98% of them never engage in these behaviors again. And 98% is a huge success rate when it comes to any kind of clinical based treatment. And it's essentially a cure for the vast majority of kids that go through this process.

And so I would encourage all the families out there if they're hearing this ... And no one ever hopes that a child engages in these types of behaviors. No one ever hopes that your child is impacted by these types of behaviors. But treatment does work, and kids learn from their past poor decisions, and can grow up to be healthy, fully successful young people, even after this extremely difficult and challenging time.

Bruce Moody:

It's great to hear about the effectiveness of the treatments, and it's a hopeful note on which we can end today's conversation. I'm just so grateful to have you with us here today and welcome you back to the podcast anytime.

Paul Shawler:

Thanks, Bruce. It was great to be with you.

Bruce Moody:

Dr. Paul Shawler is a licensed clinical psychologist, who serves as a consultant and trainer for the National Center on the Sexual Behavior of Youth.

And want to remind you that Military OneSource is an official resource of the Defense Department. We'd love to hear from you. I'll go in the program notes. There's a link. You can send us a question, a comment or an idea for a future episode.

And be sure to subscribe to this podcast wherever you listen to your podcasts, because we cover a wide range of topics that help military families navigate military life. I'm Bruce Moody. Thank you so much for listening. Take care. Bye-bye.