

The Criminal Justice System and Child Abuse Prevention;
A Conversation with Superior Court Judge Kenneth Cowser
Bill France, April 14, 2004

When I told Superior Court Judge Kenneth Cowser that I wanted to interview him in recognition of April being "Child Abuse Prevention Month", he asked "don't you think every month should be?"

Cowser prosecuted Darren Creekmore in 1986. Creekmore beat his three-year-old son Eli to death. The case gained national attention, and helped inspire the Washington State Legislature to pass the Assault on a Child Statute.

He prosecuted Noreen Erlandson after she killed her two year old, Korean-born adopted daughter. That case drew international attention and changed Korean policies on adopting children outside of their birth country.

A Superior Court Judge since 1999, Ken Cowser has presided over child abuse trials and sentencing hearings in adult court and abuse-caused dependency hearings in Juvenile Court.

On Monday, April 5, 2004, he sentenced Robert V. Beresford to 15 months in prison. Beresford, a high school teacher, initiated multiple sexual contacts with a student.

Judge Cowser told Beresford that neither the community nor Beresford would benefit from him being in treatment rather than in prison. The Herald editorial headline read, "Judge delivers tough, clear message on trust". (April 9, 2004)

What is the primary role of the criminal justice system in responding to child abuse? The criminal justice system is a responder. We try to be proactive, to do things to help people be more aware, but we really only become involved with them after something unfortunate happens.

Then our first job is to hold the right person accountable, to punish if punishment is deserved, and to provide for post release supervision if necessary.

By doing those things, we can make the community somewhat safer. If some other people will pass up the opportunity to do those things because of the system, it will make the community safer and more comfortable for most people.

What are the system's strengths in addressing that role? One job of the criminal justice system is to deter criminals. Punishment probably is a deterrent for those people who think ahead and change their behavior because of something that might happen to them. .

Rehabilitation is also an aspect. But, Washington State changed to specific sentencing ranges. That moved the criminal justice system away from a focus on rehabilitation to an emphasis on punishment and deterrence.

What are its weaknesses? The greatest weakness of the criminal justice system may be that most people who commit crimes don't think much about it ahead of time. Most crimes are emotionally charged and impulsive.

Swift and sure punishment might work for some people. But, the criminal justice system is not all that swift. It can take a long time to get from the criminal act to a criminal justice sentence.

I agree with the idea that the criminal justice system is a hyper rational system trying to deal with the most non-rational behavior people act out. We do a good job at what we do with the system, but we don't really treat the cause of the behaviors that brings people here.

Many people who commit crimes do not grasp the connection between their act a year ago, for example, and the results today in the criminal justice system. Some do the same kinds of things over and over, and punishment won't work to stop them because they don't learn the cause and the effect.

What are one or two things in common among adults who abuse children? Adults convicted of physically assaulting children have tremendous anger – tremendous, uncontrollable anger. Many have problems with substance abuse. They often lack any empathy for their victims and don't feel a sense of responsibility for their actions.

I am not sure what adults who sexually abuse children have in common with each other except that they sexually abuse children and they do it surreptitiously.

Are there laws that could be written to help prevent child abuse? No. I don't believe laws will prevent most crimes, and probably not most child abuse crimes. We can often prevent the same person from committing the same crime for a while. Punishment probably doesn't act as much of a deterrent for others though, because most people who commit crimes don't think that far ahead.

Assuming that it would be better to prevent child abuse than punish it or correct it later, what things could the community do better or more to help prevent child abuse? We need to educate children that they don't have to put up with abuse. Programs like Open Door Theatre, for example, help children understand that.

But, all child-serving agencies can and should lay foundations for times and places where children can talk about abuse. They can make environments where it is relatively easy for children to talk about their abuse, where they don't have to keep it secret.

They can also teach the adults to hear it correctly when children report abuse.

Of course, children often learn that when they do talk about abuse there is a real price to pay. Sometimes abused children get taken out of their homes while offending parents stay there. Reporting abuse can turn a young child's world upside down.

The family can get polarized with everybody taking sides. Some family members will do just about anything to hang on to what they have, no matter how little it is. When children learn that reporting abuse changes everything, they sometimes begin to retract what they said. They can begin to think it was their fault.

With older children and teenagers, I think you can reason and perhaps they can understand it better. In any case, though, it is unfair to young abused children that we have to upset their worlds for what they said rather than for what their abusers did to the

We need to find more ways to address abused children that so everything does not depend on what they can say.