

Understanding the Significance of a Minor's Trauma History in Family Court Rulings

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Many immigrant children involved in family court proceedings are survivors of traumatic events such as domestic violence, sexual assault, human trafficking, child abuse, abandonment, or neglect. Immigrant children may have experienced trauma in their home country, throughout their journey to the United States, or during the resettlement and adaptation to life in the United States. Understanding the history of traumatic events is a crucial component for state family court judges to decide the best placement, care plan, and services to be ordered for the child.

Experiencing or witnessing abuse as a minor affects the child's health and wellbeing,¹ and may affect their neurocognitive development, intellectual functioning and development, and physical actions. Minors who have witnessed or experienced abuse often also suffer from:

- Post-traumatic stress disorder;²
- Profound sense of helplessness;
- Hypervigilance;
- Low self-esteem; and
- Behavioral problems³
 - Self-medicating with street drugs
 - Aggression
 - Delinquency
 - Adult criminal acts⁴
 - Bullying⁵

¹ English, D. J., Marshall, D. B., & Stewart, A. J., *Effects of family violence on child behavior and health during early childhood*, *Journal of Family Violence*, 18(1) (2003); Huth-Bocks, A. C., Levendosky, A. A., & Semel, M. A., *The Direct and Indirect Effects of Domestic Violence on Young Children's Intellectual Functioning*, *Journal of Family Violence*, 16, 269–290 (2001); Osofsky, J., *Prevalence of Children's Exposure to Domestic Violence and Child Maltreatment: Implications for Prevention and Intervention*, *Clinical Child and Family Psychology Review* (2003).

² Kolbo, J.R., & Engelman, D., *Children Who Witness Domestic Violence: A Review of Empirical Literature*, *Journal of Interpersonal Violence*, Vol. 11.2, 281-293 (1996); Rossman BBR, Bingham RD, Emde RN: *Symptomatology and Adaptive Functioning for Children Exposed to Normative Stressors, Dog Attack, and Parental Violence*, *J Am Acad Child Adolesc Psychiatry*, 36:1089–1097 (1998); Dutton, M., Greene, B., Kaltman, S., Roesch, D., Zeffiro, T., & Krause, E., *Intimate Partner Violence, PTSD, and Adverse Health Outcomes*, *Journal of Interpersonal Violence*, 21, 955-968 (2006).

³ Moore, T.R & Pepler, D.J. *Correlates of Adjustment in Children at Risk*, In G. W. Holden, R. A. Geffner, & E. N. Jouriles (Eds.), *Children exposed to marital violence: Theory, research, and applied issues* American Psychological Association, 157–184 (1998); Cox, C. E., Kotch, J. B., & Everson, M. D. *A Longitudinal Study of Modifying Influences in the Relationship Between Domestic Violence and Child Maltreatment*, *Journal of Family Violence*, 18(1), 5-17(2003).

⁴ Widom 1989 CS Widom, C.S., *Child Abuse, Neglect, and Violent Criminal Behavior*, *Criminology*, 27, 251–272 (1989).

Immigrant children, especially immigrant girls, are at an increased risk of sexual assault. High school aged immigrant girls are twice as likely to have suffered sexual assault as their non-immigrant peers.⁶ Immigrant girls are legally and socially vulnerable to recurring sexual assault due to factors associated with their immigration status such as increased isolation, language barriers to reporting, and the break-up and restructuring of families during the immigration process. The severe impact of sexual abuse of minors commonly manifests itself physically through:⁷

- Cognitive deficits, depression, dissociation, and/or persistent posttraumatic stress disorder;
- Severe anxiety known as hypothalamic–pituitary–adrenal attenuation;
- High rates of obesity;
- Chronic health complaints such as headaches or stomach aches. As victims mature problems can become chronic conditions disorders leading to gastrointestinal, cardiovascular, respiratory, muscular-skeletal, dermatological, and/or urological problems;⁸
- Early onsets of puberty, maladaptive sexual development, sexual re-victimization;
- Dropping out of high school;
- Drug and alcohol abuse;
- Experience dating and domestic violence in relationships;⁹ and
- Teen motherhood which is further complicated by premature deliveries, offspring who are at increased risk for child maltreatment and overall mal-development

These symptoms may surface in juvenile delinquency or dependency cases and can help state court judges identify victims of abuse and sexual assault. Family courts are often the first to encounter minors with unreported or untreated trauma. Awareness of signs that a minor has been a victim of child abuse and sexual assault provides the court with the opportunity to assist immigrant minors with

⁵ Steinberg, L., *Youth Violence: Do Caregivers and Families Make a Difference?* National Institute of Justice Journal, April, 30–38 (2000) (NCJ 181732); Farrington, D.P. *Understanding and Preventing Bullying*, Crime and Justice 17, 381-458 (1993); Baldry, A. C., *Bullying in Schools and Exposure to Domestic Violence*, Child Abuse and Neglect, 27, 713–732 (2003).

⁶ Michele R. Decker, Anita Raj, & Jay G. Silverman, *Sexual Violence Against Adolescent Girls: Influences of Immigration and Acculturation*, (2007)

⁷ Penelope K. Trickett, Jennie G. Noll, and Frank W. Putnam, *The Impact of Sexual Abuse on Female Development: Lessons From a Multigenerational, Longitudinal Research Study Development and Psychopathology* 23 (2011), 453–476

⁸ The National Child Traumatic Stress Network, *Effects of Complex Trauma*, available at <http://www.nctsn.org/trauma-types/complex-trauma/effects-of-complex-trauma#q2>; Center for Substance Abuse Treatment (US). Trauma-Informed Care in Behavioral Health Services. Rockville (MD): Substance Abuse and Mental Health Services Administration (US). 2014. (Treatment Improvement Protocol (TIP) Series, No. 57.) Available at <http://www.ncbi.nlm.nih.gov/books/NBK207201/>

⁹ Silvern, L., Karyl, J., Waelde, et al, *Retrospective Reports of Parental Partner Abuse: Relationships to Depression Trauma Symptoms and Self-Esteem Among College Students*, Journal of Family Violence, 10, 177-202, (1995); Langhinrichsen-Rohling, J., Schlee, K., Monson, C., Ehrensaft, M., & Heyman, R., *What's Love Got to Do With It? Perceptions of Marital Positivity in H-to-W Aggressive, Distressed, and Happy Marriages*, Journal of Family Violence, 13, 197-212, (1998).

history of trauma in accessing stability and relief from abuse. In state family court, the minor's trauma history may affect:

- Best interests of the child determination, including the best placement or custody arrangement for that child considering the importance of placing the minor with a non-abusive parent, family member, guardian, or other safe placement;
- Minor's immigration options including findings or certifications needed as part of the immigration application;
- Minor's communication with and demeanor in court; and
- Minor's need for therapy, treatment & health care needs including victims' services & public benefits to help the minor process the trauma and begin to heal.

Family courts have the opportunity to intervene and mitigate the harms of abuse against minors. Providing comprehensive orders and making formal records of abuse that are necessary or helpful to the immigration application and allow a minor to access immigration relief improves the minor's access to:¹⁰

- Economic opportunity;
- Healthcare;
- Mentors and role models;
- Organized community programs for youth and families;
- School environment that promotes prevention; and
- Adult family members who are nurturing and provide consistent, structured supervision

¹⁰Janet Carter, *Domestic Violence, Child Abuse, and Youth Violence: Strategies for Prevention and Early Intervention* (Family Violence Prevention Fund) (2000) available at <http://www.mincava.umn.edu/link/documents/fvpf2/fvpf2.shtml>