Let’s Talk About SEX

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VIDEO CLIP
Google Search: “Sexting”
Teens have SEX.

More than you think.
But it’s illegal.

Age of Consent

Data compiled from state statutes and reported at www.ageofconsent.us
What if this was your client?

On New Year’s eve a group of teenagers rented adjacent rooms in a hotel and held an unsupervised party. During this party, Genarlow, 17-yr-old high school student, engaged in consensual oral sex with 15-yr-old TC, which was captured on video. For this act, Genarlow was charged with aggravated child molestation, which carries a mandatory minimum sentence of 10 years without parole eligibility and sex offender registration.

Relevant Statutory Language:

- **Child molestation:** “A person commits the offense of child molestation when he or she does any immoral or indecent act to or in the presence of or with any child under the age of 16 years with the intent to arouse or satisfy the sexual desires of either the child or the person.”

- **Aggravated child molestation:** “A person commits the offense of aggravated child molestation when such person commits the offense of child molestation which act physically injures the child or involves an act of sodomy.”

- Unlike child molestation, the statutory rape statute contains a Romeo and Juliet provision.
So. How do we challenge the law?

- When teens mutually consent to sexual conduct, what is possibly the purpose of hooking them with a felony conviction and all that comes with it?

- If teens can’t consent to sex, how can they willfully perpetrate a sex crime?

- When will the Constitution protect adolescents from overzealous government intrusion, instead of punishing normative behaviors?

- When did South Africa outpace the United States on issues of basic human rights?
When teens mutually consent to sexual conduct, what is possibly the purpose of hooking them with a felony conviction and all that comes with it?

When exactly did the United States of the South Africa outpace human rights issues?
Fourteenth Amendment Challenges

- Rational Basis Review

- If teens can’t consent to sex, how can they willfully perpetrate a sex crime?

- When will the Constitution protect adolescents from overzealous government intrusion, instead of punishing normative behaviors?
So then. What should be the legal response to consensual teen sex?

- Social Services Response
- Children In Need Of Services
References

- Steve James, *Romeo And Juliet Were Sex Offenders: An Analysis Of The Age Of Consent And A Call For Reform*, 78 UMKC L. Rev. 241 (2009)
References


- Emily J. Stine, *When Yes Means No, Legally: An Eighth Amendment Challenge to Classifying Consenting Teenagers as Sex Offenders*, 60 DePaul L. Rev. 1169 (2011) [http://via.library.depaul.edu/cgi/viewcontent.cgi?article=1159&context=law-review](http://via.library.depaul.edu/cgi/viewcontent.cgi?article=1159&context=law-review)


- Jake Tover, “*For Never Was A Story Of More Woe Than This Of Juliet And Her Romeo*”--*An Analysis Of The Unexpected Consequences Of Florida’s Statutory Rape Law And Its Flawed “Romeo And Juliet” Exception*, 38 Nova L. Rev. 145 (2013)
Cases

- **In re J.B.**, 107 A.3d 1 (Pa. 2014)
- **In re B.W.**, 313 S.W.3d 818 (Tex. 2010)
- **Humphrey v. Wilson**, 652 S.E.2d 501 (Ga. 2007)
- **In the Interest of Maurice D., No. 12-JD-47** (Ill. App. Ct. May 29, 2015)
- **Teddy Bear Clinic for Abused Children v. Minister of Justice and Constitutional Development** 2014 (2) SA 168 (CC) (S. Afr.)
- **J. v. National Director of Public Prosecutions** 2014 ZACC 13 (S. Afr.)