

KEEPING KIDS OFF THE SEX OFFENDER REGISTRY

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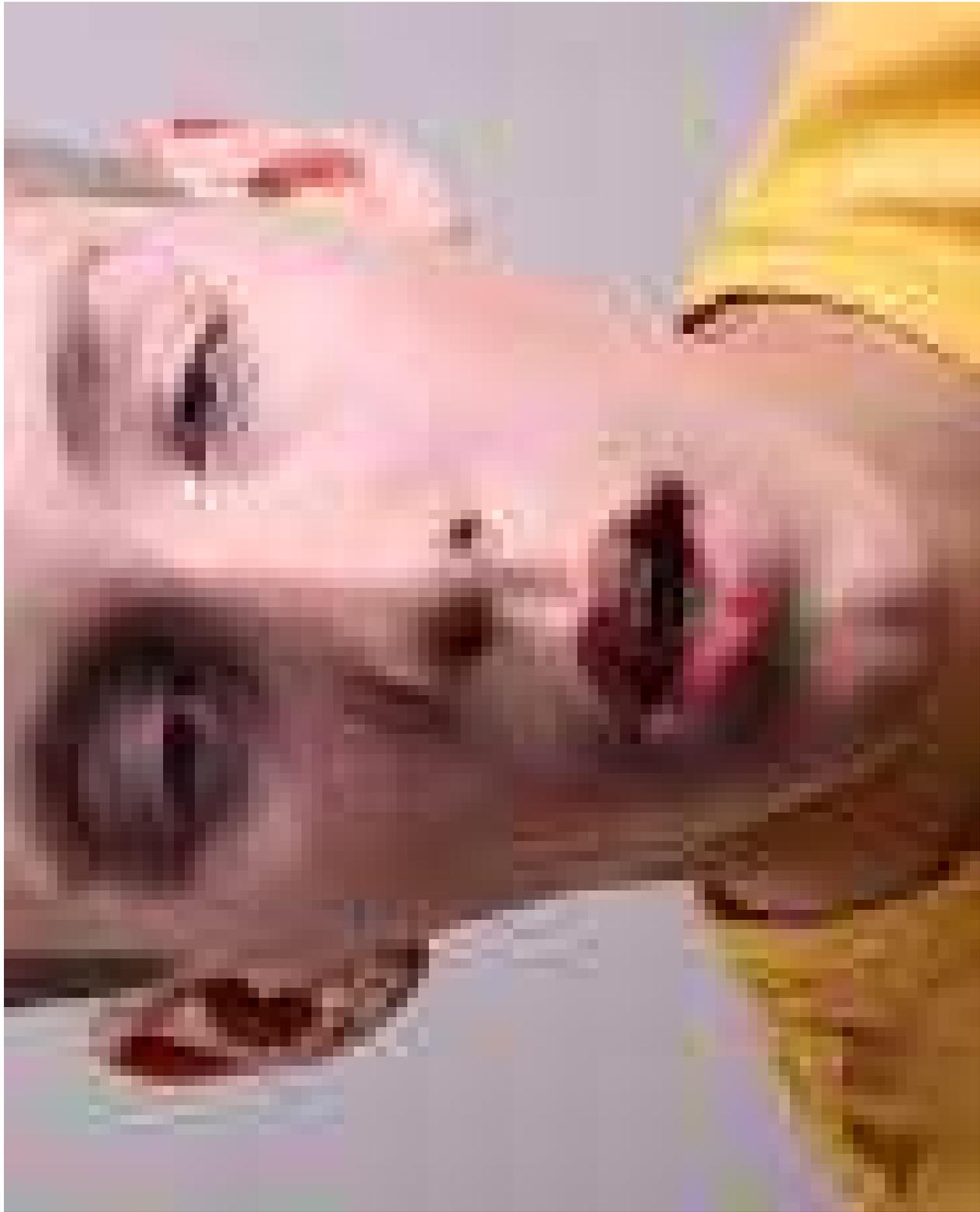
Worst Case Juvenile Scenarios

- Waiver to Adult Court
 - Placement on Sex Offender Registry
-
- Everything Else



AGENDA

- 1) Registration Consequences – making your client fear registration and embrace treatment
- 2) Qualifying Offenses – which crimes can land you on the registry
- 3) Litigating Against Registration – nuts and bolts of fighting this in Court





FEAR REGISTRATION

EMBRACE TREATMENT

LOWER RISK

AVOID REGISTRATION



Consequences of Registration

- Wis. Stat. §301.45
- Length: 15 years from disposition date, or if a juvenile is placed in Corrections, 15 years from discharge date
- Lifetime Registration is possible
- Failure to comply with Registration → Class H Felony (6 years Prison)
 - Ignorance of requirements is not a defense
- Disclosure of offense to the public
- Bureaucratic Bullshit that people screw up and go to prison for

Bureaucratic Bullshit of Registration

- Update Address of Residence
- Update Height, Hair Color, Weight
- Update Address of Workplace
- Update Address of School
- 10 days notice to D.O.C. of changes to any of the above
- Cannot move if you are not in compliance with all rules

What Determines if You Register?

TWO THINGS

1) What you have done

2) What you will do



Dr.

THANK YOU

Thank you for taking the time and having the patience to show me the EIC and the medical field. Although I will not be "going into real estate" like you advised, I am truly thankful for your thoughts and insights into the medical field. I am back to work and the opportunity to shadow with a brilliant man as myself. You must be greatly admired by those of your profession. Thank you again for your time.

Sincerely,

WHEN DO KIDS REGISTER?

Guilty of Sex Offense →

Mandatory
Registration

Guilty of *Sexy* Offense →

Discretionary
Registration

SEX OFFENSES (Mandatory)

§ 301.45(1g)

- 1ST Deg. Sexual Assault
- 2nd Deg. Sexual Assault
- 3rd Degree Sexual Assault
- Incest
- 1st Degree Sexual Assault of a Child
- 2nd Degree Sexual Assault of a Child
- Repeated Sexual Assault of a Child
- Sexual Exploitation of a Child
- Child Trafficking
- Exposing a Child to Harmful Materials
- Possession of Child Pornography
- False Imprisonment or Kidnapping

SEXY OFFENSES (Discretionary)

Delinquency finding based on violation of:

- Chapter 940 (life and bodily security)
- Chapter 944 (sexual morality)
- Chapter 948 (crimes against children)
- 942.08 or 942.09 (invasion of privacy or depiction of nudity)
- 943.01 – 943.15 (damage/trespass)

Two Ways to Avoid Registration

- 1) Statutory Exemption From Registration (Rare)
 - Wis. Stat. §301.45(1m)
 - Three Elements
 - a. No Force, Victim over Age 12
 - b. Def. > 19, within 4 years of Victim
 - c. Not needed to protect public
 - Defendant's Burden (Clear and Convincing)

- 2) Legal Stay of Registration Order (Common)
 - The Real Deal

Mandatory ≠ Definitely

§938.34(16) → Court can STAY any
Dispositional Order

State v. Cesar G → Including Mandatory
Sex Offender
Registration
2004 WI 6, 272 Wis.2d 22

FIGHT FOR

THE

STAY!!

WHEN TO FIGHT

- NOT AT DISPOSITION!

Typical Client at Disposition:

- No Sexual Offender Treatment
- Poor Acceptance of Responsibility
- No Safety Plan, Trigger Awareness etc.
- As Dangerous as they will ever be

Judicial View of Client at Disposition (Pre-Treatment)



Judicial View of Client (Post Treatment)



WHEN TO FIGHT

- Negotiate and Argue for Either:
 - Deferral of Decision on Registration to follow completion of Sex Offender Treatment
 - or–
 - Stay of Registration with a review hearing on Stay to follow completion of Sex Offender Treatment

Legal Standard

- *State v. Cesar G.* 2004 WI 6, 272 Wis.2d 22
 - Allows the Court to Permanently Stay an order requiring an individual to register as a Sexual Offender-
 - Even for Mandatory Offenses

CESAR G. FACTORS

- 1) **RISK** of committing future offenses
- 2) **SERIOUSNESS** of offense
- 3) **AGE** of victim and offender
- 4) **RELATIONSHIP** of Def. and Victim
- 5) **PHYSICAL HARM** to victim?
- 6) **MENTALLY ILL** victim?
- 7) **CATCHALL** (Any relevant info)

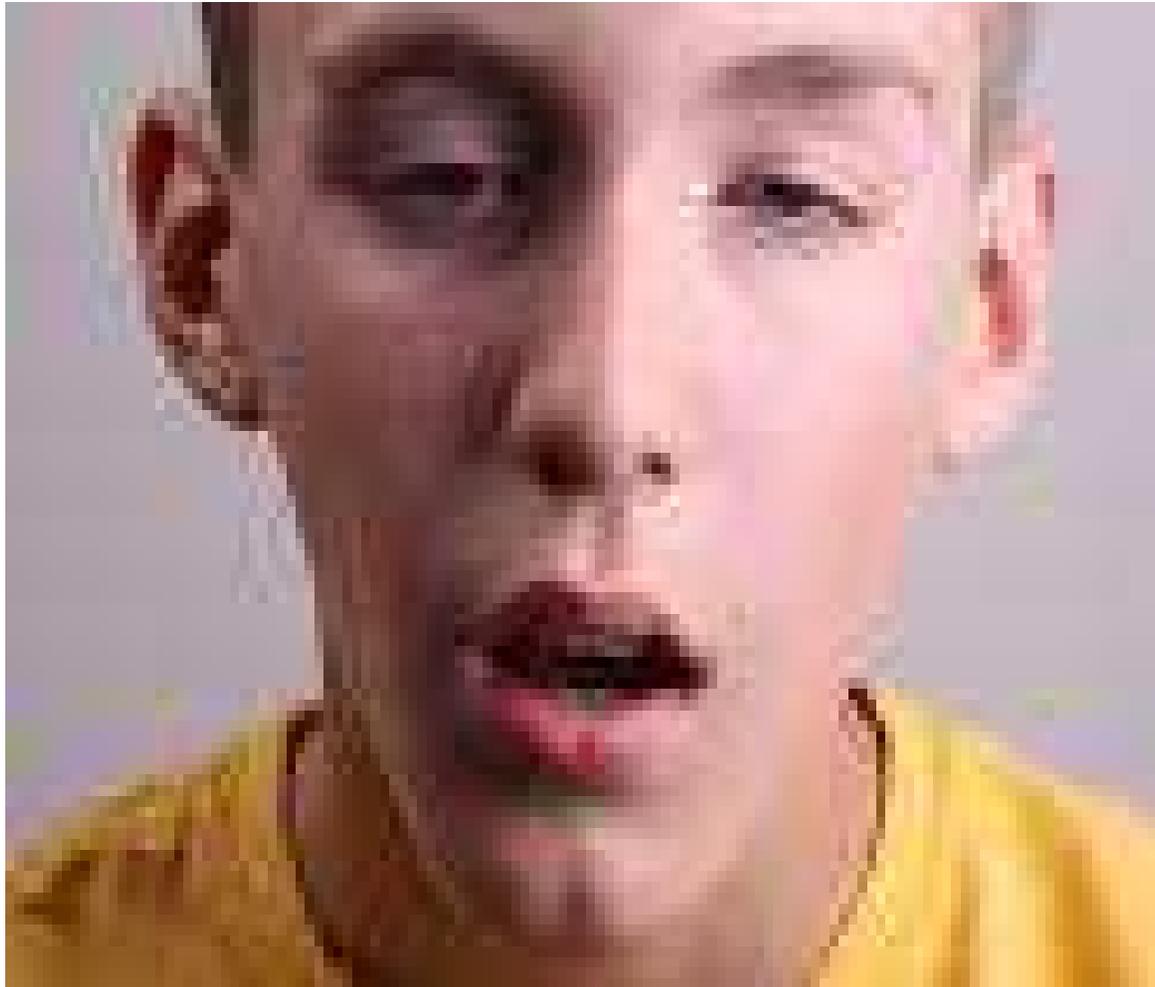
RISK



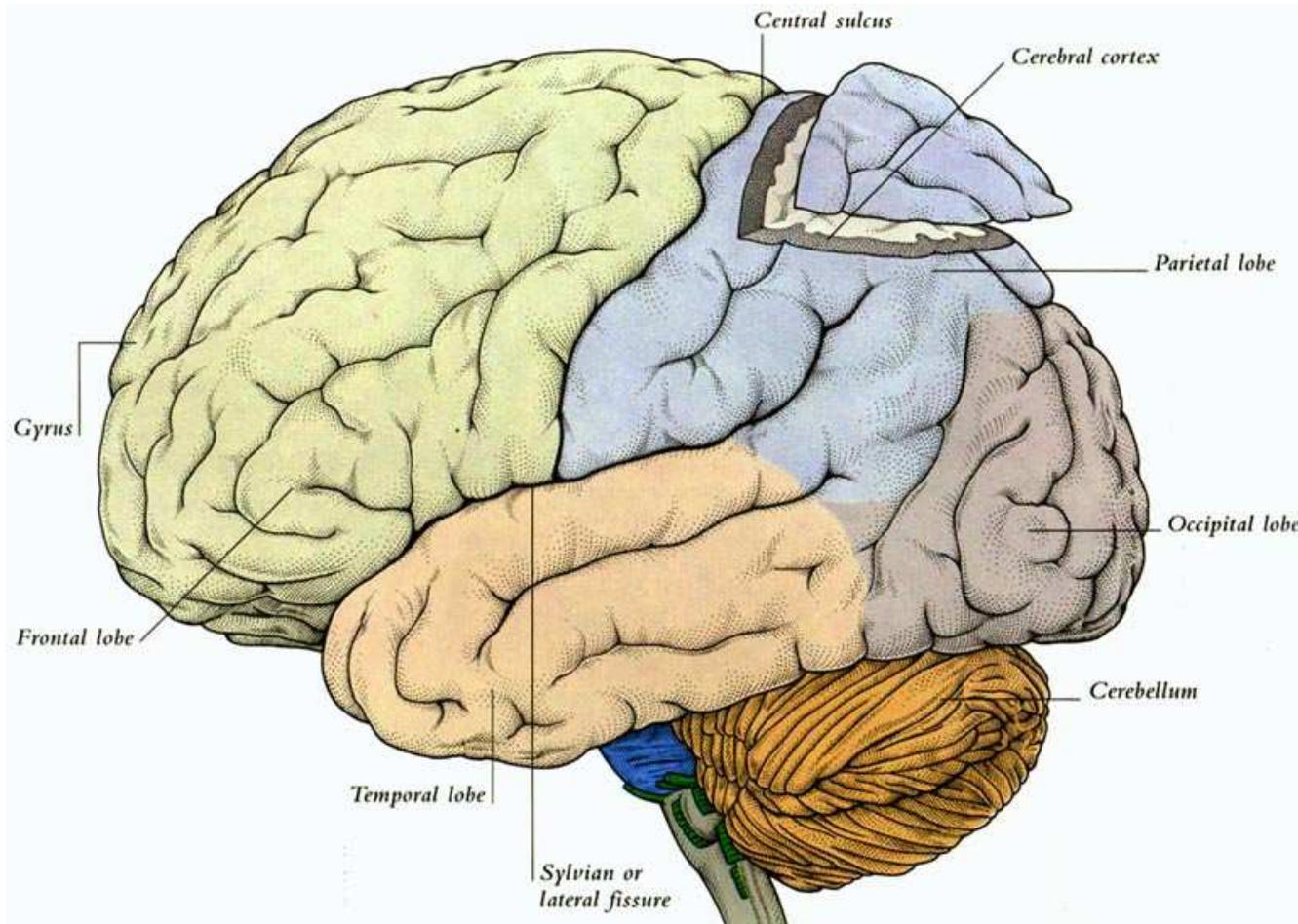
SERIOUSNESS



AGE



AGE (Some Science Stuff)



AGE (Don't screw this up)



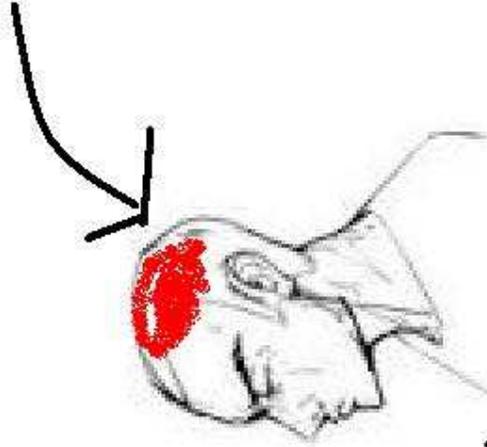
AGE



“HE CAN’T HELP IT
JUDGE!!”

"The Adult"

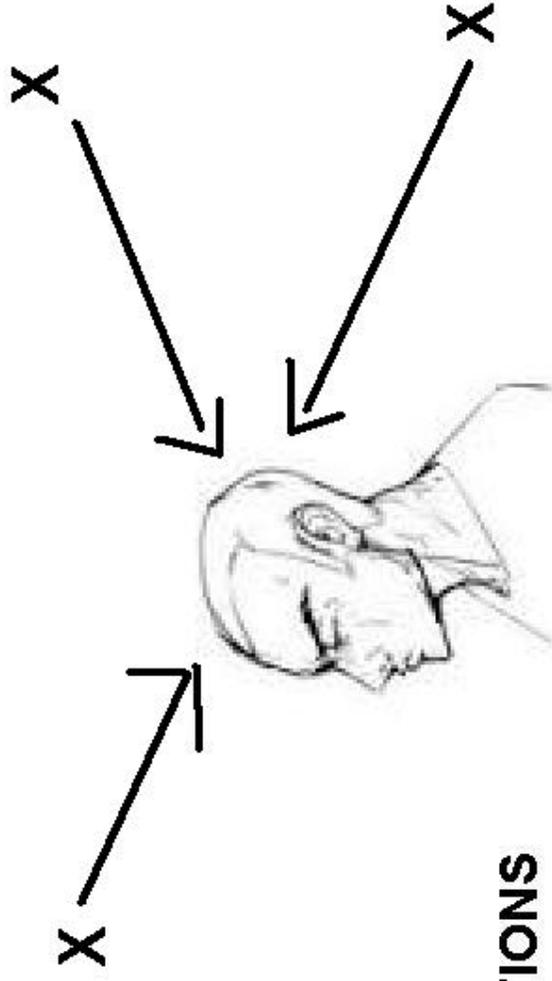
**Ingrained
Deviant
Desires**



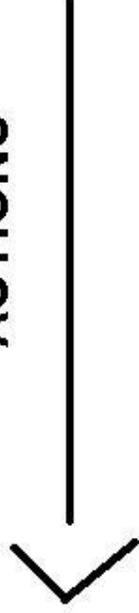
BAD ACTIONS



"The Kid"



ACTIONS



X = External Influence

"The Kid"

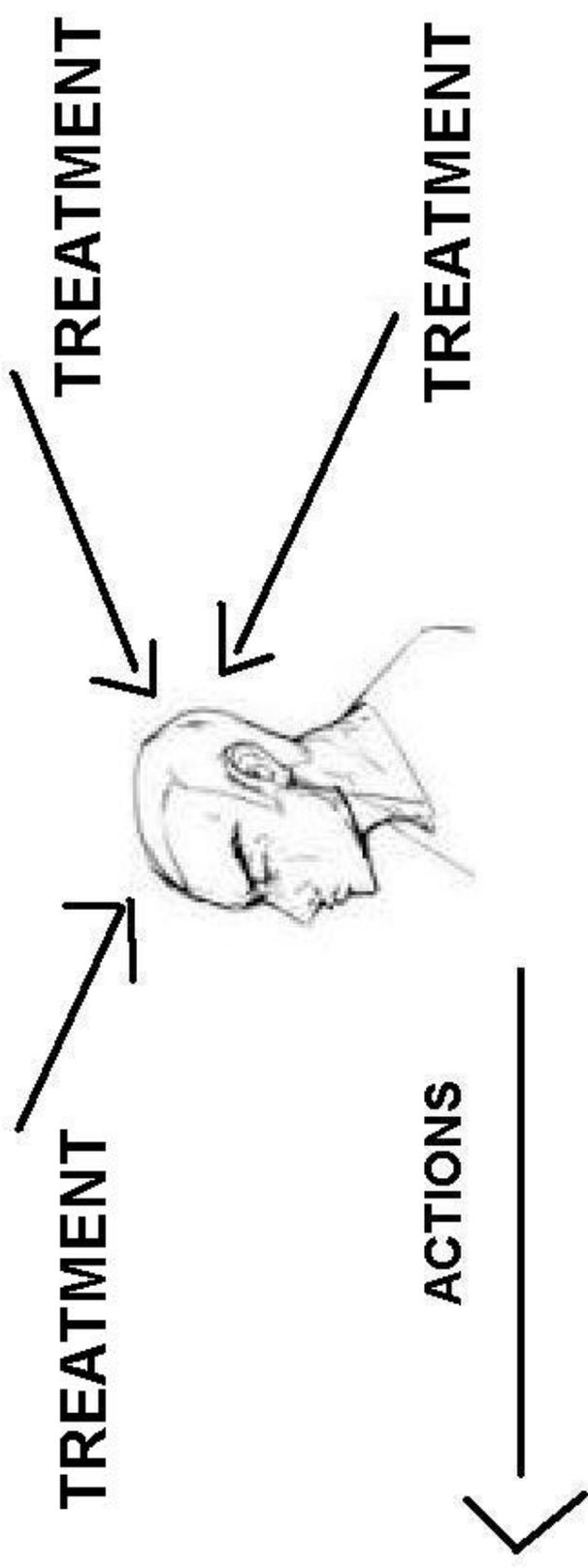


ACTIONS



SEX = SEXUAL EXTERNAL INFLUENCE

"The Kid"



TREATMENT = SEXUAL OFFENDER TREATMENT

CEZAR G. FACTORS

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- 2) **SERIOUSNESS** of offense
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- 4) **RELATIONSHIP** between Def. and Victim
- 5) **PHYSICAL HARM** to victim?
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HAPPY LAW