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## 13-Year-Old Sex Abuse Victim Wins \$15.4 Million

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In early summer of 2005, a 13-year-old boy sought counseling at a Virginia facility known as Empowering Families. The counseling center was run by a man named Daniel Price, who had employed a counselor by the name of James Davis who was assigned to the boy's case. Davis had just been hired by Price a few months prior to counseling the boy.

Throughout the course of the counseling, Davis allegedly made repeated sexual advances toward the boy and on several occasions touched him in a sexual manner. No investigation took place. No arrest was ever made. The authorities never even interviewed Davis. So the boy took his case to civil court and sued both Price and Davis on allegations of fraud.



As court records would later indicate, Davis was grossly unqualified for the position, and worse, Price did little to vet his obviously shoddy credentials. For instance, Davis had listed on his resume that he worked as an independent counselor for Bill and Hillary Clinton during part of Clinton's presidency. Yet, suspiciously, his most recently held position as a substance abuse technician paid him at a rate of less than \$12 an hour. Furthermore, it would come to light that **Davis' entire education background was a fabrication and that he had a lengthy criminal record.**

In the end, the young man and his attorney, [J. Michael Sharman](#), ended up settling with Price for an undisclosed amount. The case against Davis went to a jury trial, and in the end, the jury awarded the boy \$5.4 million in compensatory damages and \$10 million for punitive damages. Due to Virginia state law, the award had to be reduced to \$570,000, the amount requested in the original complaint.

"There were never any criminal charges against Davis and no prosecution," Sharman says. "Yet, the jury thought there were \$15 million reasons why there should have been."

Sharman's huge jury verdict in the civil sex abuse claim is not an isolated incident. In December of last year, the family of a young boy who was raped and set on fire won a largely symbolic [\\$150 billion award](#) in a wrongful death case. A prosecution of the alleged perpetrator was also absent in that incident. In addition, there are ongoing lawsuits against the Catholic church and Penn State that have arisen from incidents of sexual abuse.

"Every legal trend has a stage of maturation," Sharman says. "I think we are at that stage for childhood sexual abuse cases."

### Taking the Law into Your Own Hands

Legal experts believe the increase in civil actions involving incidents of childhood sexual abuse is caused, in part, by the fact that law enforcement and prosecutors often don't do anything to initiate or advance criminal proceedings against the alleged abuser.

"They either avoid these cases like the plague, or they bury the guy under the prison forever," Sharman says. "If the law enforcement in a particular community is avoiding it, that's because they feel as though these are hard cases to win. My jury verdict shows that ain't so."

Besides inaction on the part of authorities, these civil claims are also fueled by greater public awareness

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of sexual abuse issues and its long-term affects on victims. [According to statistics](#), 1 in 4 girls and 1 in 6 boys will have experienced an episode of sexual abuse by age 18. This means the majority of people either know someone who has been sexually abused or were abused themselves.

"I think people are becoming more aware that sexual abuse is a life-changing event for these victims," says attorney [Jonathan Rosenfeld](#). "I do think there is a little more sympathy and acceptance than there has been in the past."

## Suing for Sex Abuse

Although public sentiment has shifted, winning a civil sex abuse claim can still be problematic. First, there is no civil statute that directly addresses sex abuse. Instead, these cases often rely on allegations of [fraud](#) or [negligence](#) on the part of the abuser's employer.

"A lot of times these are negligent supervision type cases," Rosenfeld says. "Sometimes we see a situation where an employee at a facility or a school may have had complaints against him before. The allegation is that the employer knew or should have known of the person's propensities, and yet the employer failed to act."

In addition, because the effects of sexual abuse are often psychological, it is difficult to quantify damages in a case. In Sharman's lawsuit, he relied on a previous sexual abuse case within his jurisdiction to come up with his figure of \$570,000.

"In Virginia, the amount you are suing for has to have some basis," Sharman says. "At the time we sued, the highest verdict we could find for a touching sexual assault was under \$300,000 in the state, so that's where I got my figure."

Rosenfeld says he will often help his clients get counseling and that these counselors can actually help serve as expert witnesses to establish damages.

"We frequently use these counselors as damages witnesses to help not just bolster the case but to solidify and articulate what is going on in terms of the victims' behavior and how the abuse has impacted them."

Another issue unique to these sexual abuse lawsuits is the timing of the filing. If the victim is still a minor, a parent or guardian may sue on his or her behalf. But oftentimes individuals don't realize abuse has occurred or don't realize the impact the abuse has had on their lives until much later. Other times, victims have to wait years to muster the courage to come forward. This can create problems depending on the state's [statute of limitations](#).

"Courts have begun to take a more restrictive approach to statutes of limitations in these cases," Rosenfeld says. "The statute of limitations usually begins at the revelation by the victim that abuse has occurred."

Finally, there are currently few attorneys who specialize in the civil side of sexual abuse cases. Although oftentimes procedurally similar to [personal injury cases](#), these lawsuits require a very specific set of skills.

"Lawyers who do concentrate on sexual abuse cases tend to understand what the person is going through more so than a lawyer who may be accustomed to looking at medical records or medical bills where everything is black and white," Rosenfeld says. "There are a lot of intangibles in cases like this that a lawyer needs to be mindful of."

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written by **Keith Ecker**

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