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Testimony before Joint Committee: Public Protection section

I would like to thank the chair, and members of the committee for considering my testimony. I would also like to express my gratitude at being selected to testify at this hearing.

My name is Asher Lovy and I am a survivor of physical, emotional, sexual abuse at the hands of my mother. I am also the director of ZA'AKAH, an organization dedicated to advocating for survivors of child sexual abuse in the Orthodox Jewish community. I have been involved in survivor advocacy for 8 years and have been the director of ZA'AKAH for the last three years.

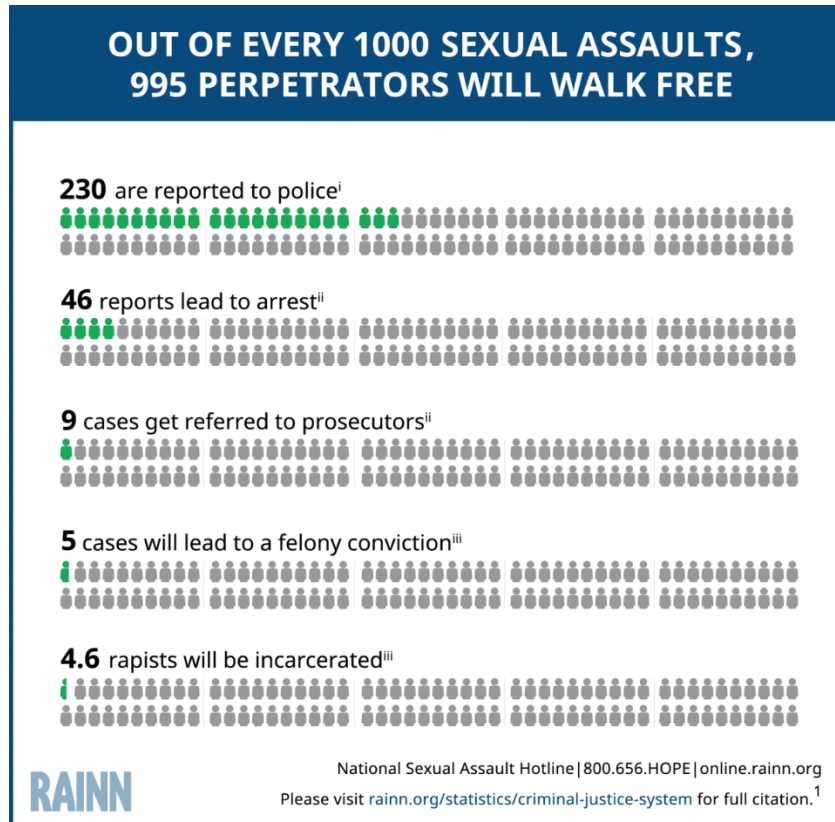
Right as I was assuming the leadership of my organization the fight to pass the Child Victims Act was being revived, and I made the decision to throw my organization and its resources into fighting for its passage. In the community I come from the issue of child sexual abuse is barely discussed. When it is discussed it tends to be done in a way that is deferent to institutional community interests. Reporting is strictly forbidden. It is considered *mesirah* (informing) and grounds for complete ostracism from the community.

In much of the Orthodox Jewish community the policy regarding reporting abuse, either explicitly or implicitly, is that a rabbi must be consulted before a report to the authorities can be made. This is the expressly stated policy of Agudath Israel, a large umbrella organization with many institutional constituents. Survivors who have bravely violated this policy have lost their jobs, been evicted from their homes, have had their children expelled from schools, and have become pariahs within the community.

And while this seems extreme and particular to a closed, insular community like the one I come from, things are not much better in the rest of the state. According to RAINN, the majority of sexual violence and abuse survivors will never report their abuse.



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That’s just addressing reporting. **Most survivors find it difficult to even disclose that they were abused to anyone.** The Australian Royal Commission into Institutional Responses to Child Sexual Abuse reports that among its respondents, it took an average of 23.9 years to tell *someone* about the abuse. Not law enforcement—someone. Similarly, many adult survivors of sexual violence and abuse delay disclosure or don’t disclose at all.

Delayed disclosure is inherent to the very nature of sexual violence and abuse, not because it has to be but because we as a society are not yet aware enough of the realities of sexual violence and abuse. Too often adult survivors are asked what they were wearing, whether they were drinking, why they didn’t say no louder, why they didn’t fight back harder, why they continued contact with their abuser, why they didn’t respond to trauma in the ways people who aren’t survivors expect them to.

Similarly, both child and adult survivors of child sexual abuse find themselves facing accusations of opportunism, of making up stories, of besmirching the name of a beloved family or community member. We are often pressured to forgive and move on, threatened with either violence or social consequences if we don’t keep quiet, or just flat out ignored.



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The effects of sexual violence and abuse are often used to discredit us. Among the effects of sexual violence and abuse are PTSD, increased risk of drug and alcohol use and addiction, depression, anxiety, self-harm, eating disorders, problems maintaining healthy relationships, and suicidal ideation.

These effects make us imperfect witnesses to our own suffering in the eyes of the public. If we succumb to addiction we are written off as an addict, if we suffer depression we are accused of mental instability and shiftlessness, if we suffer with anxiety we're written off as high strung and dramatic, and if we attempt suicide we are written off as fundamentally incapable of providing reliable testimony. I have experienced much of this as an adult survivor of child sexual abuse who writes about his experiences publicly.

These are systemic, historic problems that will take a very long time to solve. Last year the New York State legislature took an important first step toward change with the passage of the Child Victims Act. Aside from the legal particulars of the Child Victims Act the fact of its passage represented an acknowledgment of the realities that survivors of child sexual abuse experience: delayed disclosure, systemic coverup, and a fundamental feeling of insecurity for decades following their abuse.

We are seeing over 1400 cases across New York State against abusers and institutions that covered it up who would have gotten away with it forever if not for the Child Victims Act.

Last year also saw the passage of historic reforms relating to sexual harassment in the workplace thanks to the heroic efforts of the Sexual Harassment Working Group, which aside from successfully lobbying for those reforms managed to push the legislature to hold its first hearings on sexual harassment in 27 years.

These reforms included the banning of NDA's except at the complainant's sole discretion, the elimination of the 'severe and pervasive' standard and 'Faragher-Ellerth defense,' extending the period during which an employee can file a complaint about sexual harassment, expansion of the class of employees entitled to legal protections against sexual harassment, and many other important measures.

We also saw the expansion of the statutes of limitation for rape in the second and third degrees, and the passage of Erin's Law, which mandates abuse prevention education for all public school students in grades K-8.

It was a banner year for survivors of sexual violence and abuse, but the work isn't done.

The one-year window on the Child Victims Act is not enough. Despite the efforts of organizations like Safe Horizon, which has expended a tremendous amount of money and effort to launch a statewide PSA campaign about survivors' new rights under the law, there are many New Yorkers who still don't know what the Child Victims Act is.

In my community, [where the internet has been banned or severely restricted](#) by rabbinical leaders, where news comes from a few approved sources all of which have rabbinical censors approving what



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gets published, and where even being seen talking about child sexual abuse or thinking seriously about pursuing a lawsuit against a religious abuser or abusive institution is grounds for immediate ostracism, there has been very little awareness of the new rights afforded survivors of child sexual abuse under the Child Victims Act.

In fact, the largest victims services organization in the Orthodox Jewish community worldwide, Amudim, has stated on the record [that it refuses to disseminate information about the Child Victims Act](#). Shortly after the passage of the Child Victims Act, Amudim's director, Zvi Gluck, wrote an op-ed in which he [explicitly lied about the provisions in the Child Victims Act](#), claiming that there was no recourse under the new law for survivors whose statutes of limitations had expired.

Attempts to raise money to raise awareness about the Child Victims Act and survivors' rights under the new law have been difficult, and by the time those efforts are completed the window may well be closed.

Again, this is not a uniquely Orthodox Jewish problem. Many other states that have opened lookback windows have come to realize that whatever allotment their windows gave to survivors wasn't enough and have extended or reopened them. California had a lookback window open from 2002-2003 and recently re-opened it for three more years in recognition of the fact that one year was not enough. Hawaii has similarly re-opened its lookback window for the third time. **Vermont even went so far as to completely eliminate its civil statute of limitations for child sexual abuse retroactively.**

18 states have completely eliminated their criminal statutes of limitation for felony child sexual abuse charges. New York only extended its criminal statute of limitations for 5 years.

We have a lot of work still left to do.

According to many reports, only a tiny fraction of the civil cases being brought under the Child Victims Act are being brought against individual, non-institutional abusers. While the cases against institutions and institutional abusers are certainly worth celebrating, and while they will be holding accountable many people who are responsible for abusing children or enabling the abuse of children, the fact is that the Child Victims Act did not go far enough.

For many survivors, especially of abusers who are not possessed of any collectable assets, the only avenue for justice is through the criminal justice system. However, while we flung the courtroom doors wide for civil cases against institutions and wealthy individual abusers, we have only opened them a crack for survivors of non-wealthy abusers. **This injustice must be rectified in part by eliminating the criminal statute of limitations for felony child sexual abuse offenses.**

But the criminal justice system can only provide one kind of justice. It can only incarcerate or otherwise punish convicted abusers. It can only warn the community at large away from registered sex offenders. The civil process is often what survivors rely on to financially compensate them for abuse. During the many long years of trying to pass the Child Victims Act advocates and survivors were accused by the



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institutions opposing it of being moneygrubbing opportunists, but the fact that being raped or sexually abused as a child is expensive. Over lifetime, including increased costs of healthcare, lost wages, and other expenses, it costs just under \$300,000 to be a survivor of child sexual abuse [according to a 2018 study](#).

The civil process is necessary for survivors not only to recoup these losses, but also to afford the robust mental and physical healthcare they may require, as well as enough left over to give them a sense of stability in life. **When these costs are not borne by the abusers they are borne by survivors, and when survivors cannot afford them they are borne by the state.** No one except abusers and their enablers win when we deny survivors their ability to pursue claims against their abusers and enablers in civil court.

Additionally, one of the intentions of the Child Victims Act was to enable survivors whose statutes of limitation had expired to expose their abusers by filing civil suits against them. While institutional abuse is certainly a significant problem that deserves to be addressed, the vast majority of child sexual abuse is committed outside of an institutional setting, often by a family member or someone close to or known by the child. In many cases the abuser is not someone of means, and is therefore considered “judgment-proof.” For survivors of these kinds of abusers that practically means that no lawyer will take their civil case on contingency since there’s no promise of a collectable judgment if they win. Many lawyers won’t take such a case even if their hourly rate is paid because of how complicated and time-consuming these cases can be, unless there is the promise of a large payout at the end of the process.

That’s why it would be appropriate for a fund to be created to incentivize lawyers to take these kinds of cases. **If one of the explicit purposes of the Child Victims Act was to expose abusers in civil court where prosecution was no longer possible then it is in the state’s interests to fund that purpose.** It is the state’s duty to ensure the safety of all of its residents, including its children. Exposing abusers who for decades have abused with impunity falls within those interests.

But while we have been so focused on child sexual abuse we have overlooked the realities faced by adult survivors of sexual violence and abuse. As noted above, adult survivors of sexual violence and abuse also suffer from the stigma and threats leveled against all survivors of sexual abuse and violence. They too delay disclosure, rarely report to authorities, and face backlash when they dare to speak up. **Many adult (and child) survivors of sexual violence and assault are either abused in the first place or disbelieved at disclosure because of their sexual orientation or gender identity.**

In recognition of these realities, New Jersey, in 2019, opened a two year lookback window for sexual assault against adults. New York must do the same. Among adults, college-aged women and LGBTQ+ people are at the highest risk of sexual violence or assault. For many offenses victims have between 2-5 years to prosecute their assailants. As noted above the vast majority of survivors of sexual violence and assault will never disclose to law enforcement. Delayed disclosure is an inherent feature of sexual violence and abuse, and we must recognize and account for that reality. **We must open a lookback window for adult victims of sexual violence and assault.**



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While the New York State legislature has taken tremendous strides toward ensuring justice for survivors in the previous session, the work is not over. As the Jewish tradition teaches in Ethics of our Fathers, “It is not our duty to finish the work, but neither are we at liberty to neglect it.” While we cannot allow perfect to be the enemy of good in the pursuit of justice we must never cease being proactive and zealous in our efforts to protect New York State’s residents, both children and adults, from sexual violence and abuse. We must create and foster in our state an environment where everyone, from our elected officials, to our community leaders, from our teachers, to our parents, from ourselves, to our neighbors, are committed to protecting each other from sexual violence and abuse, and supporting survivors in seeking justice when God forbid abuse happens.

I thank you for your time and consideration.

Sincerely,

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