

TEXAS CRIMINAL DEFENSE GUIDE E-BOOK



NEAL DAVIS

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A photograph of a courtroom scene. In the foreground, a man in an orange jumpsuit is seen from behind, with his hands in handcuffs. He is standing in front of a wooden bench. Behind the bench, a woman with blonde hair is seated, looking towards the man. To the right, another man in a dark blue suit is standing, also seen from behind, appearing to be in conversation with the man in the jumpsuit. The background shows a wooden wall and a portion of an American flag.

CHILD SEX OFFENSES

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CHILD SEX OFFENSES

WHAT IS A SEX OFFENSE?

The term “sex offense” covers a variety of more specific crimes. For example, indecency with a child, improper student-teacher relationships, and aggravated sexual assault of a child are all considered types of sex offenses.

The legal system in both the state of Texas and the United States is harsh toward individuals convicted of sex offenses, and punishment is often severe. Some sex offenses can carry prison sentences of 25 years to life without parole. If released, those convicted may also be required to register as sex offenders, and be prevented from living close to schools and spending time near children.

CHOOSING A DEFENSE ATTORNEY

If you’ve been charged with a sexual offense, it is crucial to consult a qualified attorney as soon as possible to investigate and prepare your defense. Speaking with police before consulting a defense lawyer could seriously damage your case. If you would like a free consultation to discuss your situation with qualified **sex crime defense attorney**, please contact [Neal Davis](#) as soon as possible.

CHILD SEX OFFENSES: CHARGES

INDECENCY WITH A CHILD

It is a crime for any person to engage in sexual contact with a child. It is also a crime for a person to expose himself to a child, or to cause the child to expose himself or herself, for the purpose of sexual gratification. A “child” is defined as any person younger than 17 years old.

If sexual penetration is a part of the accusation, the charges will exceed the “Indecency” classification and punishments are more severe. (See Sexual Assault of a Child and Aggravated Sexual Assault of a Child.)

Continue reading to learn more about [indecency with a child by exposure](#) and [indecency with a child by contact](#).

LAW

Texas Penal Code [Chapter 21.11](#) states:

“(a) A person commits an offense if, with a child younger than 17 years and not the person’s spouse, whether the child is of the same or opposite sex, the person:

- (1) engages in sexual contact with the child or causes the child to engage in sexual contact; or
- (2) with intent to arouse or gratify the sexual desire of any person:

(A) exposes the person’s anus or any part of the person’s genitals, knowing the child is present; or

(B) causes the child to expose the child’s anus or any part of the child’s genitals.

(b) It is an affirmative defense to prosecution under this section that the actor:

- (1) was not more than three years older than the victim and of the opposite sex;
- (2) did not use duress, force, or a threat against the victim at the time of the offense; and
- (3) at the time of the offense:

(A) was not required under Chapter 62, Code of Criminal Procedure, to register for life as a sex offender; or

(B) was not a person who under Chapter 62 had a reportable conviction or adjudication for an offense under this section.

(c) In this section, ‘sexual contact’ means the following acts, if committed with the intent to arouse or gratify the sexual desire of any person:

- (1) any touching by a person, including touching through clothing, of the anus, breast, or any part of the genitals of a child; or
- (2) any touching of any part of the body of a child, including touching through clothing, with the anus, breast, or any part of the genitals of a person.

(d) An offense under Subsection (a)(1) is a felony of the second degree and an offense under Subsection (a)(2) is a felony of the third degree.”



PUNISHMENT

Indecency with a child involving sexual exposure is a third-degree felony. Such a felony carries a term of imprisonment from 2 to 10 years, plus a fine up to \$10,000. The defendant must register as a sex offender for ten years after being discharged from prison or community supervision. If the defendant has an additional reportable sex offense conviction or deferred adjudication, then lifetime registration is required.

Indecency with a child involving sexual contact is a second-degree felony. Such a felony carries a term of imprisonment from 2 to 20 years, plus a fine up to \$10,000. The defendant must register as a sex offender for life.



DEFENSE STRATEGY

Consent is not an acceptable defense for offenses involving minors. It is against the law to have sexual contact with a person who is younger than 17 years old, regardless of whether that person allows or encourages the contact.

Believing the complainant was older than they really were is also not an acceptable defense in Texas. For example, if someone states that they are 18 years old and even has an ID showing that they are 18 years old, the defendant has still broken the law if they engage in sexual contact with the child. It is illegal to engage in sexual contact with a person under 17 years old, regardless of whether one has been misled.

Denying that sexual contact occurred (that is, “It never happened”) is a viable defense strategy. This strategy can be used to defend against allegations of younger kids engaging in sexual behavior.



PROCESS

“I’ve been accused—what happens next?”

Investigations most often begin after the complainant reports the alleged abuse to someone—usually a friend, teacher or parent. That person then calls the police. Police take the child to an assessment center for an interview, which is recorded on video. Police then interview the witness to whom the child made the allegation and may also attempt to interrogate the suspect, or person accused of the abuse.

AT THIS POINT IN THE INVESTIGATION, IT IS CRUCIAL THAT THE PERSON ACCUSED DOES NOT SPEAK TO POLICE AND HIRES A QUALIFIED ATTORNEY.

Police are trained to be skilled interrogators. Some officers are so effective that they can coerce false confessions from suspects. To protect the outcome of the investigation, it is important that the person accused does not speak with police. Often, police have already decided to file charges and will attempt to get the person to provide information that hurts his or her chances of being proven innocent.