

CRIMINALIZED SURVIVORS AND POST-CONVICTION RELIEF

Glossary of Terms

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Affirmative Defense

A legal defense, such as self-defense or duress/coercion, in which the defendant introduces facts or arguments that, if accepted by the factfinder, eliminates legal guilt even if the prosecution proves all statutory elements of the alleged crime.

Clemency

The constitutional power of an executive (typically a state governor or the president) to show leniency to an individual convicted of a crime, typically exercised via a commutation or a pardon.

Coercive Control

A sustained pattern of dominance, intimidation, degradation, isolation, and violence used by an abuser to dominate their victim.

Commutation

An official act by one with executive authority that reduces the severity of a criminal sentence, such as reducing the length of incarceration, without erasing the underlying conviction.

Criminalized Survivor

An individual who has experienced gender-based violence, domestic abuse, sexual assault, or human trafficking and is subsequently arrested, prosecuted, or incarcerated for actions related to their survival or victimization.

Direct Appeal

A formal request filed with an appellate court immediately following a conviction or sentencing, asking a higher court to review the trial court proceeding record for legal errors, unconstitutional rulings, or procedural violations. Evidence that is not in the trial court record is not permitted on direct appeal.

Duress/Coercion Defense

An affirmative legal defense asserting that the defendant engaged in unlawful conduct only because they were compelled to do so by an unlawful threat of imminent death or serious bodily harm against themselves or another person, and they had no reasonable opportunity to escape or avoid the danger. In many jurisdictions, duress is statutorily unavailable as a complete defense to intentional homicide, and common-law strict requirements of "immediacy" and "objective reasonableness" often fail to account for the continuous terror and surveillance characteristic of domestic violence, human trafficking, and coercive control.

Habeas Corpus

A federal post-conviction procedural mechanism that allows an incarcerated individual to challenge the legality, constitutional validity, or conditions of their detention before a federal court. Some states, such as Texas and California, also use the term "habeas corpus" to refer to their state post-conviction remedies.

Ineffective Assistance of Counsel (IAC)

A constitutional claim asserting that a defense attorney's performance fell below an objective standard of reasonableness, and that this deficiency prejudiced the outcome of the case. For criminalized survivors, IAC claims commonly arise when trial counsel fails to investigate, introduce, or understand available, relevant evidence of intimate partner violence, trafficking, sexual assault, or other forms of abuse.

Newly Discovered Evidence

Evidence that was unknown and could not have been uncovered with reasonable diligence at the time of trial which raises a substantial probability of a different outcome if presented to a court. In survivors' post-conviction relief claims, this often includes previously inaccessible medical or police records of abuse, recantations by co-defendants, or modern scientific and psychological frameworks regarding trauma, brain injury, and coercive control that were unavailable at the time of the original proceeding. Some survivors have raised the issue of newly discovered evidence on appeal in situations where it would not have been safe to disclose evidence of abuse earlier.

Pardon

An official act of executive forgiveness that often restores civil rights and removes legal consequences following a conviction.

Post-Conviction Relief (PCR)

The broad legal process, typically following direct appeals, through which a convicted person can challenge the legality, fairness, or length of their conviction or sentence in court.

Survivor Justice Act (SJA)

Shorthand term applied to state-level legislation that permits courts to impose alternative, reduced sentencing or grant resentencing to survivor-defendants. This legislation typically requires the defendant to show that their experiences of being abused significantly contributed to their offense.

Vacatur

A judicial order that legally wipes away a prior conviction. Frequently used in human trafficking post-conviction relief statutes to clear a survivor's criminal record for non-violent offenses forced by their trafficker.

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