Community attitudes and the role of the victim offender relationship in child sexual abuse cases

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Research associated with the victim-offender relationship and child sexual abuse is
1988; Pollard, 1992; Simon, 1996). A similar survey of the literature demonstrates that
examining sexual offenses perpetrated against adults (Corrigan & Corrigan, 2010)
regarding the victim-offender relationship and crime highlights a bias towards
relationships has focused upon crimes perpetrated against adults. Perusal of the research
Past research into community and judicial response to the victim-offender
Sexual Assaults Against Children: Community and Judicial Response

within a specific network of individuals.

comparison to known offenders who simply behave in a manner out of character and

more dangerous, unpredictable, and indiscernible in their selection of victims in

because the criminal justice system and community perceive stranger offenders as

sentence. Wester (1985) as cited in Simon) speculated that such perceptions exist

respondents viewed non-stranger offenders as less serious and imposed a more lenient

serious offender, strangers were considered more hazardous. Community

judicial system consistently charged a perpetrator known to the victim with the more

influenced by the relationships that exist between the victim and the offender

criminal justice system and community, with regard to the crime of rape is often

The aforementioned research demonstrates that the decision-making of both the

blameworthiness of the victim and the harm suffered by the victim.

perceived seriousness of sexual assaults, and therefore sentencing decisions, perceived

1992). Evidently, the victim-offender relationship played a significant role in the

sentenced known offenders significantly less harshly than unknown offenders (Pollard,

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authorities.

profiles and the adversarial versus desired reaction from both welfare and judicial

community perceptions of the seriousness of the offence, the victim and offender

relevant to child sexual abuse policy, particularly given the attention paid to

in the development of education programs. The findings from this research are also

necessary insight into the community’s view of child sexual abuse which was integral

attitudes of the Victorian public regarding child sexual abuse. Their study provided

issue of child protection, Community Services Victoria (1992) investigated the

As a precursor to developing a programme aimed at educating the public on the

years.

that for the purpose of this paper, a ‘child’ is defined as a person under the age of 16

and the victim-offender relationship are worth further consideration. It should be noted

development, these contradictory perceptions of, and responses to, child sexual abuse

are noteworthy. However, given the importance of public opinion within policy

Western Australia Criminal Code, 1913), in and of themselves, these inconsistencies

members (Community Services Victoria, 1992) and the child sexual abuse legislation

Horsky, 1988), attitudes of professionals within the area (Corkhill, 1997), community

presence of some inconsistencies between actual judicial practice (Cashmore &

relayed to child sexual abuse. Nonetheless, the available research highlights the

typically been a small component within a larger study aimed at examining other issues

victim-offender relationship in detail. Instead, the victim-offender relationship has

repeatedly lacking. In fact, minimal research into the role of the victim-offender

Community Attitudes 9
sexual assault discussed earlier (Pollard, 1992; Simmon, 1996). That is, respondents
sexual assaults, the results showed a reaction consistent with the studies relating to adult
community's decision-making with regard to reporting and desired action against child
in terms of the manner in which the victim-offender relationship influenced the

some cases (Community Services Victoria, 1992).

blameworthiness. However, 27 percent believed that the child should take the blame in
either percent of the respondents believed that in all cases the offender is entirely
friend of the family, an uncle and a neighbor from most likely to least likely:
Sixty percent of respondents viewed victim-offender relationship as being: sequential, father's a male
offender could be inside or outside of the home. Furthermore, results showed the
smiling the offender would be inside or outside the home, and 21 percent smiling the known
the child with 19 percent smiling the offender would be inside the home, 40 percent
showed that eighty percent of respondents believed the perpetrator would be known to
Examination of community perceptions related to the victim-offender relationship

examinations of community services victoria (1992), 9 percent believed the victim of sexual assault had
examinations into the perpetrator harm caused to children sexually abused showed that
with 27 percent believing that it is sometimes a criminal offence. Results of
respondents considered the sexual abuse of children to always be a criminal offence;
that child sexual abuse was a very serious problem, only 6 percent of those
percent stating that it was not so serious. Despite 76 percent of respondents believing
percent of respondents classified child sexual abuse as a very serious social problem. 5
metropolitan and country areas (Community Services Victoria, 1992). Seventy-six

Researchers interviewed 600 people aged 17 years and over from both the Victorian

Community attitudes 10
and their average age was 11.1 years. The victim-offender relationship was as follows:

Study had disclosed two or more victims. The majority of victims were female (68.6%) under the age of 18 years at the time of the offence. Some offenders included in this case of sexual assault in the New South Wales court in 1982 where the victims were order to place the research outcomes in context. The research included 235 indelible discussing the findings of this study, some background information will be provided in influential decision-making at various stages of the criminal justice system. Before included the examination of the manner in which the victim-offender relationship system's response to sexual assault against children. A component of this study interested in providing information regarding the New South Wales' criminal justice publication's response to child sexual assault cases. This research was particularly (Cashmore and Horoky (1988) have carried out the most recent examination into the strangers (Community Services Victoria, 1992).

sexual abuse by known perpetrators as less or more serious than abuse perpetrated by Furthermore, it is also not possible to conclude whether the community perceived arguments that the punishment imposed reflected the perceived seriousness of the crime. How it influenced the perceived seriousness of the offender, it failed to directly examine influences with regard to the punishment of the offender, related to indirectly examine examined the manner in which the victim-offender relationship influenced community members', a consensus with punishment option. However, even though this research
consensus with a prison sentence and for known offenders (particularly family
of offender relationship. The preferred option for stranger offenders proved to be
(ie) no imprisonment as opposed to a term of imprisonment (the closer the victim-
indicated that they would be less likely to report, and desired a less punitive response

Community Attitudes 11
appear to be disparity between community attitudes and judicial practice. In other
study (1988) serve to act as indicators of perceived seriousness, there would again
the judiciary. Should the sentencing practices as reflected by Caushore and Hoskyn’s
respondents. However, a harsher penalty is often imposed upon the same offender by
a known offender is likely to receive a non-custodial sentence from community
child sexual abuse. In generalising these findings, one could suggest that in some cases
and sexual judicial practice with regard to the victim-offender relationship and crime of
Given these results, there appears to be a disparity between community attitudes
committed by strangers.
that child sexual abuse perpetrated by known offenders is more serious than abuse
response to the sexual abuse cases examined for the New South Wales study indicates
the community sample surveyed by Community Services Victoria (1992), the judicial
receive a custodial sentence than offenders unrelated to the victim. Therefore unlike
also more likely to be convicted following a “non guilty” plea and were more likely to
their victims were found to be more likely to proceed. Further, those offenders were
victim-offender relationship. Cases involving offenders who were closely related to
decisions to proceed with prosecution following conviction were influenced by the
court documentation regarding these cases of child sexual abuse, demonstrating that
this constitutes the principal offence in 61.3% of cases. Examination of police and
most common offence with which offenders were charged was indecent assault, with
authority in relation to the child (8.9%) and third parties to the victim (14.1%).
The
acquittal rate of the victim (42.4%); someone who held a professional position of
and fourth parties; a close friend of the family (8.9%); a friend, neighbour or
members of the victim’s family or household (25.1%); of which 77.1% were females

Community Attitudes 12
Legislation changed. The current legislation proposes harsher penalties for offenders. In 1992 the recommendations made by the task force were implemented and the subsequent legislative changes.

Such non-professional public opinion may have had minimal impact upon the their knowledge base (although highly relevant) may have overly biased the results. As although these professionals are also members of the community, it is suggested that primarily reflect the attitudes of professionals within the area of child sexual abuse.

Professional community attitudes, in such the task force's recommendations and respond to this issue, only a minority of responses obtained reflected non.

Task Force, 1987). Therefore, although the general public was involved in the news abuse, Government Departments and community-based services (Child Sexual Abuse were received from individual professionals working within the area of child sexual inquiry-eligible were received from non-professional community members. The reminder.

The West Australian. Although they received approximately seventy responses, only governing such crime. The committee called for public submissions, placing a notice in Abuse Task Force) to examine the issue of child sexual abuse and the legislation.

In 1987 the Western Australian Government established a task force (Child Sexual Abuse Legislation system would propose the opposite.

Pedophiles are less serious than those committed by a stranger. The criminal justice words, the general community may consider child sex offenses committed by known

Community Attitudes 13
In other words, recommendations made by the Child Sexual Abuse
experts (Malcolm, 1997) in their report in the Criminal Code given the penalty structures prescribed
principle was already important in the sentencing process. The legislation now made it an
appropriate punishment to ensure that Malcolm committed an act of breach of trust
committible that these offences constituted a serious breach of trust and were therefore
defined as serious offences. The guideline used was that persons in authority,
related to the victim, Western Australia, Hayden, 1992, p. 1804. The Task Force
noted that the victim is made easier by the position of trust which the offender occupies in
subsequent change in legislation was that these offences are serious because the abuse
and as such, a circumstance of aggravation. The effect of this recommendation and
would be increased in an identical fashion as those performed by family members.
A primary change to the legislation was to real the commission of a sexual offence by

<table>
<thead>
<tr>
<th>Age of Victim</th>
<th>Offence</th>
<th>Relationship</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Violent, Other Relationship or Statutory Rape</td>
<td>Person in Authority</td>
</tr>
<tr>
<td></td>
<td>Sexual Assault</td>
<td>Person in Authority</td>
</tr>
<tr>
<td></td>
<td>Sexual Offences</td>
<td>Person in Authority</td>
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<td>Sexual Offences</td>
<td>Person in Authority</td>
</tr>
<tr>
<td></td>
<td>Sexual Offences</td>
<td>Person in Authority</td>
</tr>
</tbody>
</table>

Table 1
Western Australia Criminal Code: 1997: Chapter XXXI - Sexual Offences (p.321)

Community Activities

<table>
<thead>
<tr>
<th>Paragraph</th>
<th>Process</th>
</tr>
</thead>
<tbody>
<tr>
<td>14</td>
<td></td>
</tr>
</tbody>
</table>
whether the degree of trust (and subsequent breach of trust, when a sexual offence
Cassmore and Horsey (1988), However, the researcher raises the questions as to
then stronger offences. This is consistent with judicial practice as demonstrated by
relates and by those in authority as equally serious as one another, yet more serious
(1997), it would therefore seem that legislatures consider offences perpetrated by
in contrast to the community respondents sampled by Community Services Victoria
committed by persons outside of those categories.

one another and in turn, they also receive a greater penalty than those offences
mean that both retailers and persons in authority would receive an identical penalty to
opinion subsequently impacted upon the sentencing penalties prescribed. This then
harsher penalty than an offence where trust does not exist (Melcor, 1997). Such
an offence where trust exists must be viewed as more serious and as warranting a
the concept of "breach of trust" was now considered to be an aggravating factor, then
which in turn is dependent upon many factors including aggravating factors. Given that
sentencing Act (1999) the sentence imposed is determined by offence seriousness
Australian Hansard, 1997, P. 1804), Within the framework of the Western Australian
reflect a more serious than those perpetrated without the element of trust (Western
offences committed within these relationships constitute a serious breach of trust and
relationships. The underlying belief for these changes appears to have been that
must be punished more harshly than sexual offences occurring outside those
offences occurring within a familial relationship or committed by a person of authority
These changes in legislation were clearly prompted by the perception that sexual
including "those in a position of authority" as a circumstance of aggravation.
Task Force relating to the concept of "trust" were translated into legislation by
Community Attitudes 15
relationship, such as teacher-student, where trust is agreed upon from the outset.

Duck (1992) proposes that a third type of relationship exists which results in varying levels of trust. This type of trust is best described as a contractual or professional

the child places his or her trust in the adult (the parent or selected Rubber). However, Nonetheless, these relationships both construct "individual trust" in their individual

obligation of keeping trust would vary between these two types of relationships.

build slowly as the relationship itself strengthens over time. As such, the moral

rather developed, such as the relationship between delinquent parents and children, trust

trust (Essential G Knuefer). However, in others where closeness is not inherent but

relationships from the outset, and as such are based on a high degree of unconditional

Dizer-Simones, 1973). It is assumed that family environments foster closeness within

upon the type of relationship that exists between the parties involved (Thomas &

their own home (Kennedy, 1983). The degree to which a trust is violated is dependent

reliability predictable and safe place to live, especially when they are in the confines of

Trust is particularly important because people have a need to believe that the world is a

1984). It is defined as the willingness of obligations, both explicit and implicit (Trusted).

basic component of any social system or social interaction (Essential G Knuefer),

trust is considered to be a universally accepted moral value (Trusted, 1987), and a

Is Trust Equal Between Relationships?

Rather, they simply comment that they both possess a high degree of trust.

common sense whether the degree of trust is or is not equal between these two groups.

recommends that promote the legislation changes outlined above do not

occurs) is actually equal between relatives and persons in authority. Unfortunately, the

Community Alights 16
In addition to these arguments regarding the degree of trust which exists within

Victim-Offender Relationships: Various Relationship Types

not equal between these relationships.

Diver-Immune, 1992) (Diver, 1992), Immune to the existence of public trust. (Thomas, 1994). As such, the trust exists in the relationship is evidently determined by the type of relationship between

Therefore, although trust is inherent in all relationships, the degree of trust which

means for his abuse (Shapiro, 1997, p. 627).

the act of enlisting of a child to a teacher may involuntarily provide the opportunity and

Student relationships possess both individual and public trust. It is noteworthy that

for their child. Given that a child also places his or her trust in their teacher, the teacher

obligations. For example, parents trust their teachers will fulfill their obligations of caring

to public trust) in that the community trusts certain individuals to fulfill their

role (Hamilton, 1998). This principle would therefore apply to a professional

harm but also the societal expectations placed upon that person as a result of their societal

Moral responsibility is determined not only by the fact that a person caused the

Community Attitudes 17
society - the rearing of children and the moulding of our future generation (p. 3).

individual, yet rises him with the most important task; for the continuation of that
abuse is a disease of our society; a society which dehumanises and isolates the
emotionally dependent upon them. Singer (1979) has stated that interpersonal child
position of authority over the child and as such the child was functionally and
hold their victim in a particularly helpless position because they are in a natural
child. Furthermore, she noted that offenders who live in the same home as the victim
economic, extending over a period of years, because the abuser had ready access to the
more likely to be one-time encounters, whereas incestuous abuse was apt to be
This argument was based on the premise that a sexual encounter with a stranger was
against removing the crime of incest and replacing it with sexual abuse of children.
the basis upon which society depends for its stability. Daphne (1979) argued
approach to child sexual abuse by family members and commune that the family unit is
more serious than abuse perpetrated by any other individual. Others take a similar
Rayner (1961) perceives child sexual abuse perpetrated by family members as being
criminal justice system. Given that the family is essential for the survival of the child,
offences are realised as very serious and therefore afforded harsh consequences by the
members of friends, to that which is inherent within employees fraud and harassment. Such
subsequent sense of betrayal inherent in child sexual abuse perpetrated by family
leaves the child with a greater sense of betrayal. She likened the breach of trust and
claim made by abusers perpetrated by a trusted adult is far more damaging to the child and
On reviewing literature examining the effects of child sexual abuse, Conradi (1997)
offenders.

Community Affairs 18
Western Australian Criminal Code; 1993; Further, the judicial and community studies

that the level of trust for both is very high (Child Sexual Abuse Task Force, 1987).

"trust" is equal between family members and persons in authority. If merely individuals
unknown. This is primarily because the legislation does not distinguish as to whether
judicial practice and community attitudes are outlined in this paper. Remains largely
Whether these arguments related to "trust" are consistent with the legislation,

(Forward, 1995).

Teachers and like should be subject to greater scrutiny and the harshest penalty
separated from their family networks (Forward, 1995). As such, they propose that

care of another, such as at school, they are more vulnerable given that they are
(Thompson, Kelle & Harman, 1988). Lastly, others comment that while a child is in the

afforded the privilege of trust from parents, extended family and the community.
their work or professional role to gain sexual access to children and as such, have been

the child in their care (Codd, 1993). Some perpetrators of child sexual abuse use

positions of authority not only abuse the child's trust, but also the parent who placed

evidence given that the teacher is acting in loco parentis. They argue that those in

both the "individual trust" between the teacher and student and the "public trust"

take an accumulative approach to the degree of trust which exists, taking into account
degree of trust than all other individuals (Martin, 1994). Those that support such claims

authority or responsibility, such as religious leaders and teachers, possess a higher

Contrary to those arguments outlined above, is the view that those in a position of

environment.

Clearly, these authors believe that the level of trust is highest within a family

Community Attitudes 19
Victim-offender relationship influences the public’s view of the seriousness of this

Furthermore, there has been no systematic exploration of the manner in which the

community attitudes is limited and as such, drawing firm conclusions is not possible.

the preferred penalties. However, it must be noted that the research examining

attitudes with regard to the perceived seriousness of child sexual abuse, and therefore

highlighted inconsistencies between legislation, judicial practice and community

more lenient sentences (Pollard, 1992; Sironi, 1996). In contrast, this paper has

victim as being less serious than those perpetrated by strangers, and subsequently prefer

fashion. That is, they perceive those assaults committed by an offender known to the

individuals in the criminal justice system and the community respond in a similar

considering sexual assault perpetrated against adult women, a small sample of studies

the victim-offender relationship influences the perceived seriousness of crime. When

Sullivan, 1997). This paper has reviewed the literature examining the manner in which

particularly given that they reflect the perceived seriousness of the offence (Roberts &

systems sentencing practices have received considerable attention within the media,

developed. A number of reasons for this silence were outlined. The criminal justice

remain necessary that public opinion (as the very least) be considered when policy is

community and the judicial responses to crime. Although it is recognized that

This paper takes the position that it is imperative that community attitudes be

Summary and Conclusion

Community Services Victoria, 1992.

discussed, did not examine the construct of trust (Cashmore & Horsky, 1988).
Punishment. Community attitudes appear to have had minimal impact upon either the of the offence, the harm suffered by the victim and subsequently, the severity of the manner in which the victim-offender relationship influences the perceived seriousness of the community attitudes. Legislation and the criminal justice system with regard to the response. From these studies, it can be suggested that contradictions may exist between position of html or authority are more serious and more harmful, warranting a harsher penalty. Papers appear to reflect an attitude that those offences where the perpetrator is in a position of html or authority are more serious and more harmful, warranting a harsher penalty. (Criminal Code, 1913). The Legislation and Judicial Response highlighted in a number of jurisdictional practice and Legislation has been shown to present an entirely different picture. Child sexual abuse is a crime (Community Services Victoria, 1992). Further, they are more likely to prefer a non-judicial punishment for offenders who have had a prior relationship with the victim. Although these studies suggest that the public considers child sexual abuse to be a serious social problem, some members fail to perceive this offence as a crime. According to these studies, the only research available, and as such, refers to the best starting point to examine the past was vastly different. Accurate comparisons are difficult to make. However, this is undertaken in different states and that the manner in which these studies were conducted presented was Western Australia’s. Given that the available research has been Victorian public, judicial practice was that of New South Wales and the Legislation referred to this paper, the community’s perceptions discussed were those of the attitude, judicial practice and Legislation with regard to child sexual abuse. Within the community examined the manner in which the victim-offender relationship influences community offences. In fact, perusal of existing literature illustrated that no one state or territory has...
minor injuries and whilst teaching her, the perpetrator indecently dealt with the relationship between the perpetrator and the child, as defined by the Criminal Code (1997). The perpetrator, who is in a position of trust, consented to a breach of the child's personal boundaries and江西省之区域的特征

于该案中，被告人与未成年人发生性关系的事实，构成猥亵儿童罪。根据《中华人民共和国刑法》第223条的规定，凡与未满14周岁的儿童发生性关系，均构成强奸罪。因此，被告人应当对其行为承担相应的法律责任。

进一步，由于案发时被告人与受害人的关系，当案件发生后，相关司法机关应当按照法律规定处理。


criminal penalties as set out by the Western Australian Criminal Code (1997). Additionally, all individuals in a position of trust and authority to the child, such as teachers, should receive further training on the assumption that such relationships would receive criminal penalties.

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